

## FREEDOM OF RELIGION

### I. THE ETHICAL PROBLEM

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THE problem of freedom of religion could be approached either from an historical or from a theoretical standpoint; and from this latter, one could survey either the situations that existed in the past or those that prevail at the moment; and these latter situations could be studied either in themselves or in their historical roots. We must, therefore, ask the initial question, where should the discussion of this problem begin? I believe that the initial standpoint must be that of theory. This is true of Catholic discussions, especially those that aim at conveying to our Protestant and Jewish brethren some understanding of our position. It is equally true of Protestant discussions that wish to be universally understood; they must begin with a clear statement of theory. It is impossible to write history, or to describe contemporary fact, without passing judgments of value on particular situations—judgments that are often passed simply by the use of adjectives. To be valid, or even understandable, these judgments must, of course, be based on a sane appreciation of the relativities of history and on a just allowance for the inevitable gap that always separates theory from practice; but it is even more important that they should rest on principles that have been antecedently formulated and supported by orderly argument.

An historical discussion of the problem has already been begun in these pages, by a consideration of it in its early origins;<sup>1</sup> its further historical development, will, I hope, be explored. In this article, I am undertaking to begin a statement of Catholic principles in the matter, with a view to showing how they organize themselves into a complete theory.

#### THE PROBLEM OF A FRAMEWORK

The initial task is that of setting up a framework of discussion that will reveal the structural lines of our rather complex position. It is,

<sup>1</sup> E. A. Ryan, S. J., "The Problem of Persecution in the Early Church," *THEOLOGICAL STUDIES*, V (Sept., 1944), 310-39.

of course, sometimes said that our position is summed up in the two formulas, "dogmatic intolerance" and "personal tolerance." For my own part, I feel that neither of these formulas is happy, as a formula; in fact, I should like to see both of them disappear from circulation as rapidly as possible. They are, of course, entirely open to legitimate criticism and even rejection, since neither of them has any status in official sources—from *Mirari Vos* onwards, or backwards—and neither of them is part of our technical theological vocabulary.

First of all, my fear is that the sheer use of the antithesis, "intolerance" versus "tolerance" may foster a common falsification of the whole problem in the popular mind, as if the crucial issue really were "intolerance" versus "tolerance," in the popular meaning of those terms. Again, I fear lest we seem to present a false choice to the popular will, which is not guided by nice thinking but by slogans. As a matter of fact, Catholic attitudes are widely, and wrongly, characterized as "intolerant," and Protestant (and secularist) attitudes are customarily regarded as "tolerant." Confronted, therefore, with the issue in terms of "intolerance" versus "tolerance," the popular mind will not hesitate. It is under the influence of the contemporary mood, and all the emotions that guide its thinking will inevitably determine its choice of "tolerance," with all its implications.

This matter of words is extremely important. The Church has at times been forced to abandon even some of her own splendid words because of the misleading connotations that grew up around them; think, for instance, of the grand formula, "Christian democracy," which fell on evil days; only recently—now that half a century separates us from the unfortunate French debates—could it be revived, as, indeed, it should. We are not in a position to control the connotations of words and their emotional impact. And in dealing with the issue of religious liberty—an issue already sufficiently explosive, and loaded with an emotion whose tide sets against our case—it should be a principle with us to avoid, as far as possible, the use of words that are emotionally explosive. Let me say here that the issue is not between courage and timidity in setting forth our integral position, but simply between apt and inept ways of doing it. I believe, of course, in the Kerryman's principle of "striking a blow at times for the faith"; but I should personally prefer to avoid the pugilistic error of leading with one's chin.

The formula, "dogmatic intolerance," is particularly objectionable, because of its contemporary connotations. We are normally desirous of showing that our position with regard to religious liberty, although complex, is quite reasonable. It would seem, therefore, advisable not to state it in a formula that from the outset prejudices the case against its reasonableness. As a matter of sheer fact, the word "intolerance" is synonymous in the popular mind with all that is unreasonable, and positively hateful. In customary usage, it does not designate a considered and serene intellectual and emotional attitude, formed in the light of the full truth and impregnated with profound charity; on the contrary, it stands for the entirely detestable tone and temper of a mind that is narrow, one-sided, impatient of argument, obstinate, prejudiced, aggressive, arrogant, and persecuting. As synonyms, Webster's *Collegiate Dictionary* gives "bigotry," "illiberality"; and Roget's *Thesaurus*, "bigotry," "dogmatism." These are not charges to which we plead guilty. Why, then, should we seem to prefer them against ourselves by asserting that our position is one of "dogmatic intolerance"? Incidentally, the addition of the adjective "dogmatic" effectually locks all the doors to understanding that were already slammed shut by the word "intolerance"; in customary usage, it means "opinionated; asserting a matter of opinion as if it were fact" (Webster).

A very laborious effort is made, of course, to purify the word "intolerance" of its invidious connotations. It is said, for instance, that "truth is intolerant," or that "everybody is intolerant on certain subjects," or that "we are not intolerant in the way in which it is really intolerant to be intolerant." But the first defense rests on an inexact metaphor, which transfers to things what is a correct adjectival qualification only of persons (truth is not "intolerant"; it just *is*, most serenely—and, anyway, why saddle religious truth with an opprobrious epithet that is not customarily smeared onto the truth in any other field?). The second defense adds only heat, not light, to the debate, since it merely answers a charge by a counter-charge, that provokes denial. And the third defense is altogether too subtle for the popular mind, whose stubborn unthinkingness is not perturbed by nice distinctions between kinds of intolerance, once it has made up its mind to hate all "intolerance," in obedience, if not to the dictates of Christian charity, at least to the denunciations of the

newspapers. I am thinking predominantly of this popular mind when I suggest that the formula "dogmatic intolerance" should be quietly taken out and buried. It was not originally a Catholic coinage; it was foisted on us. I do not see why we should seem to accept it, or laboriously strive to sweeten it with distinctions. The thing to do is flatly to reject it. We can at least exile it from our own vocabulary, as a positive hindrance to a right understanding of our position.

The formula, "personal tolerance," is hardly more acceptable, as a formula. It seems to be a particularly horrid way of describing the Christian virtues of justice and charity, which are the sole norms that govern relations between persons as persons. Perhaps there is no need to say more about it. It just doesn't say what it is supposed to say; and that is rather a good test for a bad formula. I should like to see it share the same grave with its equally unrevealing counterpart, "dogmatic intolerance."

In this whole matter of religious liberty, the fatal thing would be to fall into the fallacy of simplism that we so easily detect in the theories of our adversaries, and especially in their formulas. I do not think there is a brace of formulas that will state, without deforming, the Catholic position. About all one can do, by way of initial simplification, is to state the fundamental tension in our position somewhat after this fashion: We love God in the truth that He has given us, and we love man in that which is most divine in him, his conscience. We love God and His truth with a loyalty that forbids compromise of the truth, even at the promptings of what might seem to be a love of man; were it otherwise, our love both of God and man would be a *caritas ficta*. And we love man and his conscience with a loyalty that forbids injury to conscience, even at the promptings of what might seem to be a love of truth; were it otherwise, our love both of God and man would again be a *caritas ficta*. In either case, what we abhor is any *feigning*. Perhaps St. Francis de Sales came as close as anybody to a good double formula, when he spoke of *la vérité charitable* and *la charité véritable*.

However, the difficulty is that there is no good double formula. And the most serious vice of the one already discussed, "dogmatic intolerance and personal tolerance," is that it completely obscures

what it is vastly important not to obscure—the starting point of our whole position. At its worst, it suggests to the popular mind that we begin with arrogant assertion, and end with persecution, being withheld from the latter only by a lack of sufficient political power. Even in the minds of the more intelligent, the implications may very well be that we begin with an appeal to the authority of the Church, and end, if we can, by an appeal to the authority of the State to uphold the authority of the Church. The first view is utterly ridiculous, of course. But even the second view is quite distorted; and it risks getting the whole discussion off to a false start.

Actually, to one who has seriously studied the great modern conflict on religious liberty, that raged over the famous “principles of ’89,” it is quite clear that the Church took her initial stand, not on the grounds of ecclesiastical authority, but on the grounds of human reason. She collided with the doctrinaire assertions of the so-called Liberals with regard to the conscience of man and its “freedoms” and with regard to the State and its “rights”; and to these assertions she initially, and devastatingly, opposed a doctrine of the conscience of man and its duties and of the State and its limitations. Obviously, the theological issues in the whole conflict were real and essential; it was of the Church that the Liberals said: “Voilà l’ennemi!” However, the initial and fundamental issue was not a point of revealed dogma—the constitution of the Church and her authority; basically at issue were a series of points in moral and political philosophy—what is liberty, what is conscience, what is the State, what are the “freedoms” of conscience and of the State.

This fact, of course, was not so clearly marked in the earlier days of Pius IX. He was not a great philosopher. If he had been, or if he had been surrounded by great philosophers, or, in a word, if the neo-Scholastic revival had taken place a century earlier, the whole polemic of the Church during the revolutionary era might well have had a different character, and perhaps even a different outcome. We know, of course, by faith that what the Church defends is always right and true; but it would be simple credulity, not faith, to suppose that the actual details of her strategy and tactics in defense of the truth are always divinely inspired. At all events, the fact that the dispute over the “modern liberties” was basically a philosophical

dispute emerges with some clarity even from the *Syllabus*; it is entirely evident by the time of the Vatican Council; and it is perfectly luminous in the work of Leo XIII, as anyone who has studied *Immortale Dei* and *Libertas* can testify.

#### THE THREE LEVELS OF THE PROBLEM

I think it important, therefore, to be explicit and insistent on the fact that the Church's theory of religious liberty rests initially and fundamentally, not on the dogmatic assertion of a theology of her authority, but on a philosophical explanation of the structure of the human conscience and of the State, for whose validity reason itself stands sufficient guarantee. Obviously, the whole problem cannot be solved simply in terms of philosophy. In the present order of the Incarnation, philosophy is not the supreme wisdom, nor is reason man's most decisive guiding light. Faith is the fuller light, and the principles of theology complete, without destroying, those of philosophy. Consequently, the problem of religious liberty must move on from its initial philosophical position and be given a theological formulation. However, when this happens, the philosophy of conscience and of the State is gathered up and carried along to the new ground; and it is made pivotal even in the theological solution of the problem. Finally, since freedom of religion is a problem that intimately concerns the social life of man, as that life is lived in a particular set of conditions, the problem must receive its final formulation in terms of the varied and contingent realities of an individual social context. Here, too, a philosophy of conscience and of the State is still integral to its solution.

This is the architecture of the problem itself, and consequently of the Church's solution to it. But this pattern is in nowise suggested by the very unrevealing formulas, "dogmatic intolerance" and "personal tolerance"; on the contrary, they obscure the pattern and completely fail to reveal the inner logic of its solution. Discarding these unhelpful tags, therefore, I am going to suggest that the Catholic solution to the problem of religious liberty must be set forth on three distinct planes, the ethical, the theological, and the political. Actually, involved in the issue are three problems, distinct indeed, but, in the present order of salvation, not separable. They are of progres-

sively increasing complexity; and they must be handled in their natural order, if we wish to keep all the issues clear and build up the complete solution into a harmonious whole, revealing its organic structure, the lines of its logic, and the completeness with which it satisfies all the pertinent values.

The first problem is abstract and ethical, and its principle of solution is solely the light of reason. Properly speaking, it is problem of the freedom of conscience. The factors in it are God, the moral law, the human conscience, and the State (meaning civil authority in its function of effectively directing citizens to the common good of the organized community).

The second problem is again abstract, but theological. Its principle of solution is the light of revelation, as completing the light of reason. Properly speaking, it is the problem of Church and State. The factors in it are God and the moral law, Christ and the law of the Gospel, the Church, the Catholic conscience, and the State (in the same sense as above).

The third problem is concrete and political. Its principles of solution are the light of revelation, as completing the light of reason, and the precepts of political prudence with regard to the achievement of the common good of the political community. Properly speaking, it is the problem of constitutional provisions for the rights of conscience, both in the international community as such, and in particular national religio-social contexts. Its factors are God and the moral law, Christ and the law of the Gospel, the Church and the Catholic conscience, the churches and the synagogue and the consciences of their adherents (perhaps also the secularists and their "conscience," if they have any), and the State (again in the sense described).

The increasing complexity of the problem, as it ascends through the three orders of discussion, is quite plain. And it is plain, too, from the bare enumeration of the factors involved, that we are confronted with a problem of organization. All these factors enter into reciprocal relationships; our problem is to construct the right dynamic system of relationships—to make an order out of a collection of elements. When we have done this and have formulated the results in terms of law (natural law, canon law, civil law), we shall have solved the problem of freedom of religion. That is, we shall have solved it in principle;

it will still remain to make the solution work, through the cultivation of the right personal attitudes of justice and charity and through smoothly functioning social institutions. Actually, the final, concrete solution is in terms of virtue, not simply in terms of a sheer definition of relationships. But the relationships do have to be determined; and we shall determine them by a study of the *nature* of each element involved—what is God, what is conscience, what is the Church, what is the State, etc.

#### THE PERSPECTIVE OF THE CATHOLIC SOLUTION

Here, perhaps, is the place to insist that, even in the midst of its enormous complexity, the problem of religious liberty never wavers from its focus on one single, simple, and basic issue. I mean the freedom of the human person to reach God, and eternal beatitude in God, along the way in which God wills to be reached. I put this statement in such a way as positively to exclude any suggestion that it is ultimately the will of man, and not the will of God, which determines the way along which man is to reach God. Moreover, in making the statement I am not giving the slightest encouragement to any individualistic concept of religion, that would view the individual as somehow saved in isolation, or in some purely "spiritual" way. I wish simply to express the profound truth and the imperative will of God that emerge from St. Paul's awed utterance: "[He] loved me, and gave himself for me" (Gal. 2:20). Each human being is unique, in himself and in the unique situation he occupies within the concrete unity of mankind; each is the object of an unrepeatable divine creative will; each in his uniqueness is the object of Christ's redemptive act; each is destined for an eternal union with God and with His saints, that will be singular in its degree, and that will be reached under the direction and protection of a particular providence, operating within the structure of God's universal salvific will. And what God ultimately wills is that the unique love which He has for each of His redeemed creatures may have its consummation in the ordered sanctity of heaven. Ultimately, God wills to save men.

It is, of course, no less obligatorily God's will, manifested by Christ and displayed to the world by the Church, that man's sanctity is to be begun on earth, and sought in the one Temple of the Holy Spirit,



the one House of God, the one Body of Christ, the one Fold of the one Shepherd—in a corporate society that is visible and hierarchic, wherein a living voice teaches, and human pastors rule, and sanctification is sacramental. But this is an “economy,” a dispensation, divinely willed and wisely willed, because it is suited to the conditions of human life, and to man’s temporal bondage to the necessities of matter. As God, through Christ, has instituted this economy and made it obligatory, so He will save it, and all that is visible and institutional in it, until the end of time. But He does not will to save it eternally; for it is of time and for time, and it will end with time. The days of the visible, hierarchical Church are literally numbered; they will run out when there are no more “days,” but only an eternal Now. The magisterial authority of the Church, her hierarchy of jurisdiction, and her sacramental system are divine in their origin and institution, but temporal in their finality. In heaven the only magisterial authority will be the divine mind itself, to which the soul will have direct access; the only hierarchy will be that of sanctity; and the only sacrament will be the glorified Humanity of our Lord and Savior, Jesus Christ. The Church, as a juridical society, exists *iure divino*, indeed; however, it does not exist to save itself, as it were, but men.

All this, of course, implies no false separation between the *Rechtskirche* and the *Liebeskirche* in the present economy; the Body of Christ is one; it is at once the mystical fellowship of the Spirit and a juridical society; and its two “lives” are as much one as the life of body and soul. However, all this does set our perspectives. In the present matter, it establishes the fact that here on earth the thing of supreme and ultimate importance is that the human person should be free to reach the place to which God has predestined him in heaven’s eternal hierarchy of sanctity. The Church has never thought otherwise. It is not, for instance, a ceremonial gesture that the Roman Pontiff, symbol of the Church’s institutional reality, signs himself, “*Servus servorum Dei*.” The whole of the so-called “institutional action” of the Church, whether in her mission to souls or in her mission in the temporal order, has no other ultimate focus than the protection, support, and perfecting of the freedom of man to reach his eternal destiny. As I shall later show, even when the problem of freedom of religion appears on the theological plane as the problem of Church and

State, the basic issue involved in it is the freedom of the human person, Christian and citizen, to live at peace in Christ and in society, that he may thus move straight on to God. This was clearly the thought of Leo XIII, who was in the center of the stream of Catholic thought. Like his predecessors and successors in the see of Peter, he championed the "rights of the Church," and contended for right juridical relationships between the Church and the secular power. But this combat has always been, as it were, of the surface. It has been important, and often very fierce, only because the stake in it was on a level far deeper than the level on which the combat itself was fought. Actually, the stake was the ultimate human value, the freedom of the soul of man to go to the Father, through Christ, in the Spirit and in the Church, and in secular society—the freedom to live that true life, personal and social, religious and civic, which is the *inchoatio vitae aeternae*.

These perspectives—the perspectives of eternity—are maintained with ease by the Catholic; for he sees the Church from within, and grasps her profound aims underneath all the conflicts and manoeuvres of the surface. I dare say that he is at times puzzled by some of the manoeuvres, and at times, too, he doubts their tactical value; hence the multitudinous controversies among Catholics, usually about matters of what is called diocesan policy, or even about movements of Vatican diplomacy. At all events, no matter how the Catholic may judge the tactical value of this or that "institutional action" of the Church, universal or local, past or present, he is by no means inclined to mistake its final purpose, nor to suppose that it pursues any other goal than what Catholic phraseology calls "the good of souls," all souls, be they Catholic or not—the eternal interests of the human person and the progress of mankind through an ordered temporal life towards its supratemporal destiny, opened to it by Christ. Beyond these interests, which are identical with the purpose of the redemption, the Church has no other "institutional interests."

On the other hand, it is extremely difficult for the average Protestant so to situate himself as to be able to view the existence, the nature, and especially the "institutional action" of the Church in the perspectives of her primal and single concern for the basic human liberty to reach God as God wills to be reached. The reasons for the difficulty are numerous; and to explore them would lead us to measure the width

and the depth of the *magnum chaos* that centuries of doctrinal division, religious development, and secular evolution have established between Catholics and their separated brethren. This cannot be done here. But possibly it would be worthwhile to undertake the positive task of stating Catholic doctrine on religious liberty in such a way as perhaps to reveal the perspectives in which it is conceived, as well as its own internal structural lines. The present article will deal only with the first facet of the doctrine—the foundations of our whole position, which are laid in the solution of what I have called the ethical problem.

#### THE QUESTION OF A COMMON STAND

Let me here put in a preliminary note. I have said that the architecture of the Catholic solution of the problem of religious liberty follows the architecture of the problem itself. I would go on to emphasize the fact that no one is at liberty to alter the architecture of the problem to suit himself. Essentially, the problem involves an ethic of conscience, a theology of the Church, and a political philosophy of the State. And it is absolutely impossible to conceive any solution to it, except in these terms. Protestant solutions, if they pretend to be vertebrate, and intellectually respectable, must necessarily repose on certain positive tenets in ethics, theology, and political philosophy. They cannot be respected if they rest simply on empirical or emotional bases, much less if they float in the air, supported only by the lighter-than-air content of an assemblage of catchwords, and least of all if their major premise is simply the negative one of opposition to "the Roman Catholic hierarchy."

Fortunately, the more seriously thought-out Protestant solutions do invoke an ethic of conscience, a theology of the Church, and a political philosophy. Sometimes these elements are not sharply defined, nor strongly integrated; but they are present in some form. For this reason, I feel that there may be some hope of communication across the boundaries that divide Protestant and Catholic. There is even some possibility of agreement, in the midst of serious disagreement. Briefly, I would put the possibilities thus: (1) we can reach an important measure of agreement on the ethical plane; (2) we must agree to disagree on the theological plane; (3) but we can reach harmony of action and mutual confidence on the political plane, in

virtue of the agreement previously established on the ethical plane, as well as in virtue of a shared concern for the common good of the political community, international and national.

It is this third objective that is presently desirable—in fact, strictly necessary; for both Catholics and Protestants have a common obligation to preserve harmony of action and mutual confidence on the political plane, in the interests of their common good—public peace, civic friendship, the reign of justice in social life, temporal prosperity. Competent observers have noted that the issue of religious liberty is contributing powerfully to the heightening of tension between the Catholic and Protestant groups. The difficulty in the way of social concord is obvious. Catholic and Protestant theologies of the Church are radically divergent and irreconcilable. Moreover, Protestants say that the Catholic doctrine of the Church has implications with regard to the temporal order that are unacceptable (that is the mildest word they use). On their side, Catholics say that the Protestant doctrine of the Church has implications in the temporal order that are likewise unacceptable (again, the mildest word). Here, therefore, is our problem—a common problem: While preserving intact our theological disagreement (which has its own grounds), how shall we abolish mutual distrust, and strengthen our social unity, civic amity, harmony of action and mutual confidence in a common pursuit of the common good? Obviously, the dilemma is not to be solved by abolishing one of its horns, the theological disagreement. In reason, we cannot be asked to accept a solution to the problem of religious liberty that is conceived in terms of Protestant ecclesiology. In turn, we cannot demand that the solution of the problem be postponed until Protestants shall have accepted our ecclesiology.

So far as I can see, the only solution to our common problem must be along the following lines. Our subsistent theological disagreements will cease to generate suspicion and separatism on the level of social life, when both sides have the assurance that their opposing theologies of the Church are projected against the background of an ethic of conscience and a philosophy of political life that are based on reason, that are therefore mutually acceptable, and that are not destroyed by the disagreements in ecclesiology. This ethic of conscience and this political philosophy will stand guarantee that our respective theologies can under no circumstances have such implica-

tions in the temporal order as would be injurious to the integrity of conscience, be it Catholic or Protestant.

It is with a view, not only to following the pattern of the problem itself, but also to working towards this practical concord between Catholics and Protestants that I should insist on beginning discussion of the problem of religious liberty on the ethical plane. There is also a further reason. It would be unfortunate to see this problem become simply a Catholic vs. Protestant issue. The problem is really much wider, in the form that it assumes in various national scenes, including the American, and in the form that it has on the international level. And there is reason to fear that, while Catholics and Protestants are having a merry dispute, the secularists and totalitarians will move in and solve the problem in their own way—the secularists, by evacuating the concept of religious liberty of all ethical content; and the totalitarians, by forcibly destroying the concept itself, whatever its content. The differences between Catholics and Protestants are very real and important; no less real and important is the necessity of seeing that two common enemies of each do not triumph over both. There is a stand to be made against secularism, which makes freedom of religion mean freedom from religion, and which is particularly dangerous in its denial of the relevance of religion to social order and public life. And there is a stand to be made against totalitarianism, which destroys freedom of religion by destroying religion itself, through the imposition of the cult of the absolute State. The stand against these two enemies can be made on the ground of human reason and the natural law, that define the nature of the human conscience and the nature of the State. On this ground, therefore, Catholics and Protestants can make a common stand, as an act of good will—a will that has for its object a common good.

#### THE ETHICAL PROBLEM

On the ethical plane, the problem of religious liberty is abstract in a twofold sense. First, we choose to discuss it solely in the light of the *nature* of the elements involved in it; we move in the order of essences as such. It is not a question of religious liberty in Spain, or in the United States, or at any particular period of history, but of religious liberty in itself, as an endowment of man as man. Secondly, we choose to consider the problem as purely philosophical, and we

aim at a solution solely in terms of human reason. We admit into the problem only those elements whose existence is certified by reason, and we construct our solution out of only those conclusions which reason validates. In a word, we are supposing that the problem is posited in what Catholic thought calls "the order of pure nature"; we are moving in the universe of discourse characteristic of Scholastic ethics, the natural science of morals, whose single architect is human reason.

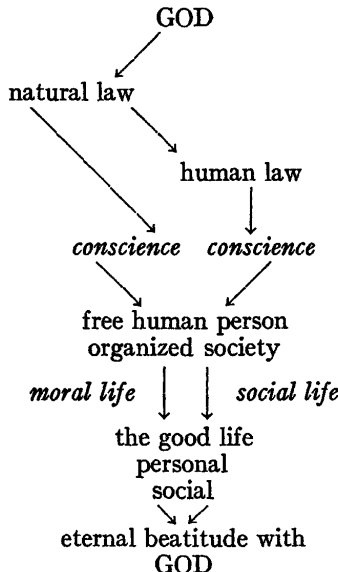
Consequently, we prescind from all the realities of the present, historic, supernatural order, which are certified to us only by revelation and known only by faith. In particular, we prescind from the fact of Christ, on which the whole supernatural order of salvation is built. We leave out of consideration His teaching and His mission and His Church—her authority, ministry, sacraments, Scriptures, law. In the purely natural order in which we are moving, there is still one true religion; but its creed is simply that sum of truth about God and man which reason can discover from the works of God; it includes the existence of God as a personal being, the author of all things that are, infinite in perfection, provident over the world and especially over the life of man, of whom He is the last end and highest good, etc. And the moral code of this natural religion embraces simply the precepts of the natural law with regard to man's essential duties towards God, himself, and his neighbor. And this moral law is mediated to man by conscience.

In this order, too, we can conceive the existence of religious associations; but they would be purely voluntary in character; they would owe their existence and their constitution and the determination of their purposes solely to the will of man, and they could be altered or joined or abandoned simply at man's own choice. There would be only two natural, and therefore obligatory, societies—domestic society and civil society; to them man would be impelled by needs inherent in his nature as such, and they would be the only two necessary social means and milieu in which he would be obliged by nature to seek his rational and human perfection. Consequently, there would be only two moral authorities empowered to impose obligations on conscience; there would be, first, parental authority in the home, and secondly, civil authority in the political community. This latter would be superior to the individual conscience, but only in its own order—the

order of social life and the common good; in this order it would effectively oblige the individual in conscience to obey just laws and to give his necessary co-operation toward the common good. At the same time, civil authority and the organized community of which it is the directive principle would itself be subject to the sovereignty of God and bound to obey the moral law in all its actions.

This is a very rapid sketch of the religious and moral universe, as it would be known simply to reason, apart from revelation. In a sense, it is an unreal universe; but only in the sense that it is not a complete picture of the universe as it is in our present, historic order. As far as it goes, it is a valid picture; and any conclusions about man's religious freedom that we draw while operating in this universe will be entirely valid, not to be destroyed, but only completed by the further conclusions that revelation will impel us to draw. They will be conclusions based on the very nature of man; and man's nature has not been destroyed but perfected by its elevation into a supernatural economy.

Positing our problem, then, in this abstract universe of discourse, we find it composed of the following elements, which may be disposed in a diagram that will to some extent indicate the structure of the problem itself:



The focus of the problem is on the human person, who is a member of organized society. And the problem itself is that of determining the immunities and the positive empowerments which the human person enjoys, inasmuch as it is a human person, the image of God (a rational and free moral agent), destined both to "the good life" on earth and to a supratemporal beatitude, under the direction of the authority and law of God, and under the direction of civil law and authority—both of which laws are mediated to the person by conscience.

### *Liberty and Law*

First of all, it will be noted from the very statement of the problem that it supposes a very intimate relationship between liberty and law. This supposition needs to be examined briefly.

We are, of course, dealing with liberty in the moral sense, not in the purely physical sense. In the latter sense, liberty—natural liberty, as it is called—is the property of the human will whereby man is master of his own acts, immune from the mechanical or psychological determinisms that are the single spring of action in the vegetative and animal kingdoms. The free will is the *potentia ad utrumlibet*, a faculty of choice between alternatives—acting or not acting, acting thus or so. Natural liberty is not the same as moral liberty, but it is the presupposition and condition of moral liberty: man is a moral agent, responsible for his own actions, because he is master of them. Moreover, in one cardinal respect, natural liberty illustrates the nature of moral liberty: as, in the physical order, man's natural freedom is intrinsically related to his power of reason, so, in the moral order, man's moral freedom is intrinsically related to the ordinances of reason, which are law—*ordinatio rationis*. Moral freedom and moral law are as essentially correlated as the natural faculty of free choice and the natural faculty of reason.

The point needs great emphasis, as against current antinomian theories, consciously or unconsciously held, which tend to conceive liberty as sheer release, total emancipation, an indefinitely expanding spontaneity—in a word, an Absolute, over against which the authority of law can stand only as an enemy, a destructive force, to be submitted to only as one submits to a police power. This is sheer absurdity.



Hardly more acceptable is the view that considers law as coming to liberty from the outside, as it were; as if law were simply a principle of repression, whose imposition on man could create at best only an uneasy and unworthy state of heteronomy. Actually, the case is quite otherwise. The notion of law is to be discovered at the very interior of the notion of liberty, in such wise that liberty itself is unintelligible apart from law as its root, support, light, guide, and ally. Without going into the subject at length, the fact itself may be substantiated.

In the physical order, the will of man is self-determining, actively indifferent towards acting or not acting and towards acting thus or so, because there exists in man the faculty of reason. By virtue of his reason, man is capable of surveying the whole range of truth and goodness, of deliberating about the values that it contains, and of judging that here and now this value is desirable, and to be pursued. Apart from this previous deliberation and judgment, there is no free act. And every free act is an obedience to a judgment of reason.<sup>2</sup> Precisely in the privilege of being obedient only to reason consists the freedom of the will—its immunity from all less noble determinants. So far, then, from freedom being simply an escape from obedience, the notion of obedience is inherent in the very notion of spiritual freedom: “by its nature [the will] is an appetite obedient to reason.”<sup>3</sup> The principle that man’s freedom is inherently an obedience to reason is true even on the plane of the psychological process; but it prevails with still greater vigor on the plane of man’s moral freedom. Here, too, the fundamental point is the intimate relation between freedom and reason. But now reason appears, not simply as the power to weigh particular goods and judge them desirable and present them to the will for acceptance as such, but also as the power to discover and understand the “order of reason,” as an order—I mean the relation of man to God, his author and last end, and the relation that all free human action has to the attainment or loss of this last end. Reason

<sup>2</sup> This statement is not to be taken as implying any sort of rational determinism; I am pursuing only one point here, not giving a complete theory of free will, which would involve explaining how the free act is the common offspring of reason and of will.

<sup>3</sup> Leo XIII, *Libertas*, in *Leonis Papae XIII Allocutiones, Epistolae, Constitutiones* (Paris: Desclée, 1893), III, 98; all subsequent references are to this edition; the translations are my own.

discovers the dignity of man as the image of God, created by Him as His image, coequal with the other members of the human family, whose proper perfection consists in making his rational, free, and social nature perfectly rational, free, and social. With his dignity, man discovers his destiny, which is God, and the possession of God, man's highest good, the only Absolute Good, to be willed of necessity, for its own sake, above all things and in all things. And in the fact of his destiny to the possession of God, man discovers the dominating principle of the order of reason, and the norm whereby to make true judgments of value. Formed in the light of an understanding of this order of reason, man's individual judgments acquire a new force. They not only state what is good and what is evil; they also dictate that the evil is to be avoided and the good done. The judgment of reason appears as an imperative of reason, prescribing to the will what it must reach for, and what it must turn away from, in order that man may reach his proper perfection and his last end. This formulation of the demands of the order of reason is what we mean by law—*ordinatio rationis*.

Confronted with this moral imperative, the function of freedom again appears as an obedience, an acceptance of the order of reason and its concrete demands. This acceptance is the act of moral freedom. By definition, then, moral freedom consists in man's deliberate obedience to moral law. Consequently, in yielding this obedience, the free human spirit does not submit to an alien force, to an unworthy heteronomy, that would violate or diminish its own freedom; for it is in the very nature of freedom to be obedient to reason, and to submit to the imperatives, the laws, that derive from the order of reason. When it obeys and submits, it perfects its own freedom. So far from being hostile to liberty, or even antithetic to it, law is the intrinsic complement of liberty. The moral life of man is essentially bipolar; it is vitalized, made human, made free and ordered, by the salutary tension between the two poles, liberty and law. It was in this sense that Leo XIII wrote:

The radical reason for man's need of law is to be found in his own faculty of free choice—that is, in the need for harmony between the will and right reason. It is a complete perversion and inversion of the truth to imagine that, because man is by nature free, therefore he should be free from law. If this

were the case, it would follow that liberty, in order to be liberty, would have to be loosed from all vital relation with reason. As a matter of fact, the very opposite is true: because man is free, therefore he must be subject to law.<sup>4</sup>

This has been a very sketchy treatment of a difficult, if fundamentally simple, question; but perhaps it will serve our present purpose. One thing, however, needs to be added. We know that human reason is not infallible; the possibility of erroneous judgment is native to it, not indeed as a perfection of reason, but as its essential imperfection. As a created reason, it is of its nature defectible; as a human reason, it is dependent on matter and sense; it is obliged to proceed in concepts, which are partial views, and difficult to combine; and it is subject at every step to the influence of sentiment and passion. Consequently, in its function of being a light to the will, reason can at times play the rôle of an *ignis fatuus*, and in obedience to its leading the will can go astray after a good that is delusory. Even when this happens, the will continues to be, in a sense, obedient to reason; for it can pursue evil only under the guise of good, and this guise is thrown about evil by the mind's "rationalization," which presents a specious value to the will as if it were real. Even when man sins, he sins in obedience to reason—reason misled and misleading. Moreover, this obedience to falsity is free. But what man achieves by his free sin is not freedom; actually, he enters into a state of slavery. *Retentus terminis alienis*. He gives himself over to error and evil—constraints that are foreign to the very nature of the human mind and will, bonds that are unworthy of the free human spirit. For this reason, our Lord said: "He who acts sinfully is the slave of sin" (John 8:34). And on this theme St. Augustine wove some of his most profound analyses of the nature of freedom, as well as of the nature of grace. For our purposes, it is important to keep in view the essential difference between the two "freedoms." There is man's "freedom" to err and sin, which is very real, and terrible, but only speciously a freedom; for it cloaks what is, in fact, a slavery. And there is man's freedom to live and act under the domain of law, and to conform his life and action to the order of reason—*cui servire regnare est*.

It has been necessary to say this much about the relation between liberty and law; otherwise we could not appreciate our problem. If

<sup>4</sup> *Libertas*, p. 100.

the problem of religious liberty were posited in terms of the so-called liberal concept of freedom, it would be ineffably easy to solve. Or rather, there would be no problem at all—no ethical problem; for the ethical problem begins only when one perceives the necessary relation between moral liberty and moral law.

By reason of this necessary relation, the problem of religious liberty also appears as a problem of the juridical order—the order of relationships that are established in terms of reciprocal rights and obligations. The term “liberty” designates initially, of course, an exemption, an immunity from coercion, prohibition, restraint, or compulsion; but it likewise implies a positive empowerment to do or demand something. When an immunity and a positive empowerment are viewed as having their origin in law (either the law of nature or human law), the “liberty” they assert appears as a right; and, as a right, it connotes an obligation on the part of others not to violate the immunity or impede the exercise of the empowerment. It was for this reason that I defined the problem of religious liberty as that of determining “the immunities and the positive empowerments” of the human person, under a system of law.

#### THE TWO LAWS

The primal law to which human liberty is related, as to the basic principle of its true liberation, is the natural law. We cannot here undertake to explore this concept, which has of late emerged to a new prominence. It will be sufficient to give a definition of it, in the words of Leo XIII:

The first and foremost [guide of human action, whereby man achieves his full freedom—so the context] is the natural law, which is written and engraved in the heart of each and every man; for it is human reason itself, commanding us to do what is right and forbidding us to sin. A precept of reason, to be sure, cannot have the force of law, except insofar as it is the voice and interpreter of a higher reason, to which our mind and liberty must be subject. For the force of law is to impose duties and to grant rights; and consequently, law depends for its force wholly on authority—that is, on a true power of prescribing duties and defining rights, and likewise of sanctioning commands with rewards and punishments. But it is clearly not within the power of man to exercise this authority over himself; he is not, therefore, the supreme legislator in his own case, nor does he set the norm of his own actions. The further consequence is that the law of nature is the

eternal law itself, implanted in those who are endowed with reason, and causing them to move toward the action and the end to which they are destined. And this eternal law is the eternal reason of God, creator and ruler of the world.<sup>5</sup>

For our present purposes, the thing to remember about natural law is the simple fact that it is truly law—not, of course, “written” law (a statute or a code), but “unwritten” law. (The traditional metaphor, “the law written in the heart of man,” may be misleading; it indicates the origin of the law from nature, not its form.) Natural law is the ensemble of things to be done and things not to be done which follow of necessity from the sheer fact that man is man. The necessity of doing or avoiding these things is perceived, not created, by reason, which then issues the ordinances of reason which are, in effect, natural law. Reason, indeed, issues the ordinances; but it does not of itself make them ordinances, binding rules. They are such because they reflect the eternal mind and purposes of God, which decree that man should be man, and should act as a man, and move toward the destiny of man. The ordinances of reason are law, but they have the force of law only because they are “the voice and interpreter of a higher reason.”

The second genus of law to which human liberty is related, again as to a principle of liberation, is human law. Its root is in the social nature of man; and it expresses the demands of reason with regard to social life—above all, the primary demand that human society should be a co-operating unity, wherein free men associate themselves, under authoritative guidance, in pursuit of a common good. It is possible here to give only a bare outline of a philosophy of human law; and this may be done in another text of Leo XIII:

What reason and the natural law do for men in their individuality, human law, enacted for the common good, does for them in their association [it assures the harmony between free action and reason—so the context]. There is one type of human law which deals with what is by nature good or evil, and which bids men pursue the good and avoid the evil, adding a proper sanction. Precepts of this kind, of course, do not have their first beginnings with society; for, as society did not itself produce human nature, so it does not originally make some things suitable to human nature (and good), and other things unsuitable to human nature (and evil). On the contrary, precepts of this kind antecede all social living; their source is to be found in the natural law, and consequently in the eternal law. For this

<sup>5</sup> *Libertas*, p. 100.

reason, when the precepts of natural law are enacted in the laws of men, they have more than the force of merely human law; they chiefly represent the much higher and more majestic imperatives that proceed from the law of nature and the eternal law. And with respect to this kind of law, the precise function of the legislator is to establish a common system of discipline, that will make the citizens obedient to these laws [natural and eternal], by restraining those who are wayward and inclined to violations of morality. His purpose is to see that they are deterred from evil and pursue what is good, or at least that they do not become a cause of vexation and injury to the community.

There is another class of prescriptions of civil authority, which do not immediately and proximately flow from the natural law, but only remotely and indirectly, inasmuch as they define the details of certain courses of action for which nature has made provision only in a broad and general way. For instance, nature commands citizens to contribute their share to the public peace and prosperity; but the measure of the contribution, the manner of making it, and the areas in which it is to be made are not determined by nature but by the wisdom of men. As a matter of fact, human law, properly so called, consists precisely in these rules of life, which are devised by reason and prudence and declared by legitimate authority. It is human law which prescribes to all citizens how they are to co-operate toward the end set before the community, and which forbids them to go off in other directions. And inasmuch as it is dependent on the prescriptions of nature and in harmony with them, human law is a guide to virtue and a deterrent from evil. From all this we may gather that the norm and rule of the liberty of the social community, as well as of the individual, is the eternal law of God.<sup>6</sup>

It is evident that the philosophy of human law here outlined has as its counterpart a philosophy of the State as the agency for the enactment and enforcement of law. This latter philosophy asserts the moral nature and the moral function of the State. It asserts, first, that the State, in its legislative function as in all its functions, is not an amoral entity, that escapes the control of a higher law—the law of nature and of nature's God, which exists before and above all human society. In other words, it asserts the principle embodied in the first point of the famous Pattern for Peace, that "not only individuals but nations, states, and international society are subject to the sovereignty of God and to the moral law which comes from God."

Secondly, this philosophy asserts that the State has a moral function, as well as purely material, administrative, and police functions. Itself subject to the moral law, it is the legitimate instrument for in-

<sup>6</sup> *Libertas*, pp. 101-102.

sure the observance of the moral law, and for determining the exigencies of the moral law, in the domain of community life. In its actions and policies, and especially in its legislative code, it cannot maintain a position of "neutrality" or indifference, disposed to accord equal rights to good and evil, and to view both with equal complacency. Of its own nature, the State, through its laws, is a power singly for the common *good*, which is not only material but moral in its scope, and includes civic virtue as its primary component. It has, therefore, the function of seeing to it that good is done and evil avoided. The sphere of its competence in moral matters is, of course, strictly limited, extending only to such matters as have a bearing on the *common* good; but within this sphere it has a true moral authority and can oblige in conscience. And as a moral authority, its ultimate purpose is to assist in preserving and perfecting the liberty of the community—its true liberty which consists in the harmony between social life and the order of reason. In this sense, Leo XIII, in the text already cited, concludes from the right philosophy of human law to the true nature of civil liberty:

In social life, therefore, the true essence of liberty does not consist in the fact that every man may do as he pleases; such "liberty" would tend to complete turmoil and confusion, and to the overthrow of the organized community. Rather, true liberty consists in this, that the regime of civil law gives every man fuller freedom to live according to the precepts of the eternal law. Similarly, the freedom of those in authority does not consist in their being able to issue commands at their own casual whim; such "liberty" would be equally criminal, and tend no less to the ruin of the State. Rather, human laws must get their force from the fact that they are understood to flow from the eternal law, and to sanction nothing that is not contained in it, as in the principle of all law.<sup>7</sup>

It is evident that this whole philosophy of human law and authority in their relation to human freedom stands midway between two extreme positions that have occupied political ground in modern times. First, there is the individualistic theory. On the one hand, it regards the individual's freedom of choice—his initial, natural freedom, that extends to both good and evil—as the supreme freedom, absolutely sovereign, an end in itself; and correlatively, it regards the function of the State as simply the protection of the natural freedom of the

<sup>7</sup> *Libertas*, p. 102.

individual. In fulfilling this function, it grants equal rights to good and evil as these are freely chosen; and its effort is simply to make all possible acts of free choice, good or bad, available to all men. Men thus appear as little gods, with no restriction on their freedom save this, that they are not to hinder a similar freedom on the part of others.<sup>8</sup> The State has no moral function, but acts simply as an umpire between the conflicting freedoms of individuals. There is no moral law, relevant to social life and higher than the individual wills of the contracting parties who make up the State, of which the State is the executor. In its French costume, this theory was the fashion in the nineteenth century; but it is now discredited, since history has proved that this abstract theory of freedom for all men to do as they please has the concrete result of making freedom the privilege of a few, to the oppression of the many, and to the destruction of the common good.

At the opposite extreme stands the theory that has appeared in the world in German and Russian dress—the totalitarian theory of human law and human freedom. In it, the supreme freedom and the absolute sovereignty are assigned to the State itself, which thus displaces the absolutely autonomous individual of the individualistic theory as the great god, juridically omnipotent, an end in itself, a sort of *Divina Maestas*, that claims the divine prerogative of being the source and fount of law. The function of the State is progressively to realize its own freedom, that is, progressively to aggrandize its own power. Correlatively, the function of the individual is to sacrifice himself to the achievement of the power of the State, which is the essential common task; and human law is simply the convenient means of insuring the fullness of this sacrifice. The citizen's freedom of choice is abolished, as is also his freedom of spiritual autonomy—his right to the realization of his own moral freedom. There remains to him only the unidirectional freedom of pursuing that which the State has decreed to be "good," as conducive to the expansion of its own power. He

<sup>8</sup> Cf. the Fourth Article in the Declaration of the Rights of Man and of the Citizen: "Liberty consists in the right to do anything which does not injure anybody else; therefore the exercise of the natural rights [this term needs to be understood in the sense of French *philosophisme*] of every man knows no limitations save the ones which are needed to insure these same rights to the other members of society. And these limits can be determined only by the law." Later, in Article Six, it is said that "law is the expression of the popular will."



becomes a slave, and he is supposed to be a happy slave, because he serves the supreme freedom of the State, *cui servire regnare est*.

Paradoxically enough, both of these extreme positions have a common root in the true principle that the function of law and authority is to perfect freedom. Their common error is a complete misunderstanding of the terms of the principle; for both of them fail to situate the idea of liberty and the idea of law in the framework of the eternal *ratio Dei*, which is the source of both liberty and law. Together, these theories deny the principle that "the norm and rule of the liberty of the social community, as well as of the individual, is the eternal law of God" (Leo XIII). Yet this is the principle that rescues society from becoming either an anarchy of atoms or a mechanized army of slaves. When both the freedom of the individual and the law of the State recognize a common subjection to the natural law as the reflection of the eternal mind and purpose of God, then human law is able to fulfil its true function of perfecting human liberty, and human liberty is able to fulfil its true function of perfecting human life, within the order of reason in society established by human law. The order of freedom and the order of law are harmonized: "the regime of civil law gives every man fuller freedom to live according to the precepts of the eternal law."

#### CONSCIENCE

It was quite impossible to approach the ethical problem of religious liberty without having antecedently formulated a doctrine of the relations between liberty and law in general, and between liberty and the two laws to which it is subject. I have done this in barest outline. We have next to consider the notion of conscience, which appears so prominently in the diagrammatic statement of our problem as the median concept between liberty and law.

The word "conscience" is in that group of words which are posing the great contemporary problem of semantic. Its meaning, especially in the much used phrase, "freedom of conscience," is sometimes impossible to determine; and not seldom the term has no ethical meaning at all, being practically synonymous with individual good pleasure, that acknowledges no regulation by any ethical standard—so in the schools of subjectivist and secularist thought. Yet the tradi-

tional ethics of the West has defined the concept very exactly, in itself and in its premises.

We have already touched on the premises—man's freedom under the order of reason. On the one hand, the human person is really governed by law—a law that is "given" to it; on the other hand, the human person really governs itself—it gives the law to itself. The doctrine of conscience is the synthesis of these two principles, and resolves their seeming contradiction; in their light the function of conscience appears as essentially mediatorial. It is not the function of conscience to create the law of human life, any more than it creates God, or human nature, or human society. These realities are "given"; and with them the law of human life is also "given." Standing, therefore, under a "given" law, the human person (conscience included) stands under a heteronomy. On the other hand, being endowed with reason and will, the human person is autonomous, master of its acts; and its autonomy must be respected even under the control of a heteronomous regime of law. To resolve this dilemma, it is necessary that law, remaining law, should become somehow interior to man; he must give it to himself, but as a law given to him.

He does this by conscience—a practical judgment of reason, whereby in the light of the known law a man judges of the morality of a concrete act, whether it is licit, or prescribed, or prohibited. In this act of judgment, the objective law is so mediated to man that it becomes his own law. Conscience, therefore, is the proximate subjective norm of human action—a norm that man imposes on himself; and the morality of an act depends immediately upon it. However, conscience is not the norm of its own rightness; it is itself regulated by a higher norm, not of its own creation—the eternal law of God, made known either in natural law or in the determinations of natural law laid down by legitimate authority. Conscience is not the judge of this higher law, but is judged by it. Conscience is not the *legis-lator*, but the *legis-mediator*; it is a standard of morality, but only as mediating a higher standard, and applying it to the concrete act. In his moral action, therefore, man preserves the autonomy proper to his condition, because in it he obeys a dictate of his own conscience. At the same time, he remains firmly under the heteronomy likewise proper to his condition, because the dictate of his own conscience ultimately de-

mands obedience, not because it is his own dictate, but because it applies the dictate of the eternal law. So conscience stands, as it were, between the objective law and the freely chosen act. Its function is essentially mediatorial—that of conforming itself to the order of the divine reason, in order that it may conform human action to this order. Not inappropriately, Newman compares conscience to a priest; for it truly distributes blessings and anathemas—not its own, but God's.

As a matter of fact, the nature and function of conscience are rather admirably summed up in the traditional metaphor: "Conscience is the voice of God." This statement immediately cuts between two extreme, and false, positions. First, it asserts that conscience is the *voice* of God; it is not God Himself. Hence it is not the final arbiter of truth and falsity, right and wrong. Man is indeed judged in the light of his conscience; but it is God who judges conscience. Only God is law in its source; conscience is but law in its application. On the other hand, conscience is the voice of *God*; it is not merely a human voice. Hence its commands come to us vested with a divine authority, that may not be disregarded under penalty of sin. Conscience is a sacred and sovereign monitor; for in its utterances we hear God Himself speaking.

We see, therefore, the dignity of conscience and its dependence; in fact, its dignity derives wholly from its dependence, as the dignity of the voice is that of the speaker. We see, too, that the first effect of conscience is a binding, and not (as is often supposed) a freeing. Initially, conscience is the principle of our enfeoffment to God and to His law; for in its commands God, as it were, takes the last step across the threshold of reason and seizes hold of us here and now. However, precisely because it enfeoffs us to God, conscience also enfranchises us from all that would hinder us on the way to God. The same voice that bids us obey also forbids others to interfere with the freedom of our obedience. In the more customary juridical terms, conscience has rights because it has duties; its freedoms are measured in terms of its bonds. What these freedoms are, we shall later determine. But it is already clear that among the rights of conscience is certainly not the right to debase the dignity of conscience by denying its dependence on God, ignoring the ultimate Lawgiver, and demanding respect for its every private fancy. A "conscience" that would assert such "rights"

is a miserable counterfeit of the reality—a hollow, disembodied voice, in which there is no slightest echo of the majestic ring of the true “voice of God,” but only the childish, petulant accents of the voice of self-will.

### *The Rules of Conscience*

The first, and the life-long, obligation of conscience is, of course, that of educating itself. This “voice of God” initially speaks with clarity only on the distinction between right and wrong, and on the duty of doing right and avoiding wrong. It must be taught all else; and the process of teaching and learning is extraordinarily difficult. Newman put the situation well:

But the sense of right and wrong, which is the first element of religion, is so delicate, so fitful, so easily puzzled, obscured, perverted, so subtle in its argumentative methods, so impressible by education, so biassed by pride and passion, so unsteady in its course, that, in the struggle for existence amid the various exercises and triumphs of the human intellect, this sense is at once the highest of all teachers, yet the least luminous.<sup>9</sup>

How shall it be made luminous? This is a subject in itself, on which only three remarks can be made here. First, the education of conscience demands the cultivation of that measure of moral science which the individual requires to meet and make successfully the moral decisions that occur in his own context—family life, business life, etc. Obviously, the acquisition of this moral science demands consultation of the best moral thought of humanity throughout its history; it is more than ordinarily fatal for the individual to do his moral thinking in isolation. Again, the education of conscience demands cultivation of the virtue of prudence, whereby the conclusions of moral science are applied to particular cases, with a certain readiness of concrete judgment. But, above all, the educated conscience is acquired at the price of high moral discipline—the discipline of the moral virtues, whereby reason is rescued from the dominion of pride or prejudice or passion, and from the subtle influence of self-deception or evil habit, and from the general “darkness” in which sin and lack of sincerity always obscure the light of reason and conscience.

<sup>9</sup> *Letter to the Duke of Norfolk*, in *Difficulties of Anglicans* (London: Longmans, Green, 1907), II, 253-54; this chapter on “Conscience” is good, although the famous “toast to conscience” at the end has been misunderstood by Protestants.

The general rules that state the place of conscience in man's religious and moral life follow from the nature of conscience, and may be thus summarized: (1) One must always follow conscience when it commands or forbids action, and never act against it; (2) one may always follow conscience when it permits action. However, if left in this general statement, these rules would be too general; they would overlook the two great problems which have claimed the attention of moralists for centuries. First, there is the problem of what is called the "dubious conscience," meaning the state of mind of one whose religious or moral position is not secure, but undermined with doubts, so that, confronted with alternative courses of action, he hesitates in deciding which course is dictated or permitted by reason and the law of God. This famous problem, so actively discussed in more modern times, need not concern us here. Suffice it to say that such a dubious conscience is no rule of right moral action, and that action in such a state of mind would be certainly sinful; for it would be a practical affirmation of indifference toward the law of God, and a wilful exposure of oneself to the risk of offending Him. Of itself, this state of mind imposes the obligation of a search for fuller truth, or, in the last analysis, of recourse to a reflex principle whereby conscience may be "formed" to certitude. Several moral systems have been proposed as means of thus "forming" conscience; the leading one is the system of "probabilism," as it is called. In some quarters, of course, it is the fashion to dismiss this whole area of moral science (characteristically Catholic) as intolerably subtle and casuistical. As a matter of fact, however, these very practical speculations strikingly exhibit the two concerns that run all through Catholic moral thought. The first is a profound concern for the sacredness of the law of God, which must at all costs be kept inviolate; and the second is an equally profound concern for the integrity of conscience, whose every exigency must be respected and whose inner freedom must be safeguarded.

More pertinent to our present purposes is the problem of the erroneous conscience. It is the older problem of the two; for instance, it is primary among the issues raised by St. Thomas Aquinas when he is discussing conscience. The sheer fact that conscience can be erroneous—that it can command or permit what is actually wrong, and forbid what is actually right—is too obvious to escape anyone who has

ever thought about conscience. Human reason has almost unlimited possibilities of being deceived, and especially of deceiving itself, notably in its own case, and even more notably in its moral judgments. Men confuse right with wrong, error with truth; and the confusion is nonetheless real because it is oftentimes entirely sincere. A man's sincerity proves only that he is sincere; it does not prove that he is wise, or even right, for he may be sincerely ignorant or sincerely wrong. Moreover, God has commanded us, not only to be sincere, but to do what is right and avoid what is wrong. The question, therefore, rises, whether conscience can oblige us to do what is wrong or to avoid what is right.

An erroneous conscience, of course, is a practical judgment with regard to religious belief or moral action, that is formed in ignorance of the full realities of the case, and that, as a matter of fact, is wrong. So, to take an obvious example, one might judge polygamy to be not only licit but a matter of religious observance, in ignorance of the fact that it is contrary to the natural law. Ignorance is at the root of the error found in the judgment. It follows immediately, therefore, that the moral status of the erroneous conscience will depend on the nature of the ignorance which occasioned it. In general, two types of ignorance may be distinguished.

First, we may suppose the case of a man who is in ignorance, but who has a more or less strong suspicion that he is in ignorance. To some degree, he is conscious of the fact that he is assuming a position that it not entirely reasonable, but rather "rationalized"; he assumes it for reasons that are, as the distinction goes, "good reasons," but not "the real reasons." He achieves certainty of a kind, but it is only of the surface; he is at least dimly aware that he has not got to the bottom of the matter. His ignorance is real enough, therefore, but vincible. It can be overcome because it is somehow recognized as ignorance. The defect of knowledge has not escaped the man, and he perceives it as possibly leading to an error of judgment. Yet he makes the judgment, which turns out, in fact, to be erroneous. This, in brief, is the state of what is called the vincibly erroneous conscience. The question is, whether such a conscience is a right norm of moral action.

The answer is, obviously, no. A man may neither follow such a conscience nor act against it, since for all practical purposes it is a "dubious" conscience, that can utter no proper permissions or imper-

atives. In this state of mind, a man's single obligation is to rid himself of his ignorance, and get at the realities of the case, by a process of study, consultation, and prayer. In the meantime, action has to be held in abeyance.

Again, we may suppose the case of a man who is in ignorance, but who likewise is not in a position to get out of his ignorance, because he does not suspect that he is in it. His position was reached after serious thought, prayer, and the use of the readily available means of arriving at a right judgment. He is quite secure in thinking that the beliefs he holds are true or that the action he contemplates is good; there is neither doubt nor disquiet nor any thought that he may perhaps be wrong. His ignorance, in a word, is invincible; for the starting-point for overcoming it is lacking. Yet the practical judgment, made in consequence of the ignorance, is actually erroneous. What of this practical judgment?

All moralists agree that, if such a conscience *permits* a particular belief or action, one may licitly follow it; and they agree, too, that if such a conscience *commands* or *forbids* a particular belief or action, one is strictly bound to follow it, and not to act against it. The reason lies in the very nature of man. In making human nature rational, God made it subject to the laws of a rational nature; and one of these laws is the general law that *all* laws of human nature must reach man, and be imposed upon him, by reason and its practical judgments. There is no other way, in keeping with the dignity of man, whereby his obedience to the laws of his nature may be secured, save by these practical dictates of reason, which procure obedience, and a rational obedience. It is, therefore, a law of nature that one of the functions of reason is to mediate the eternal law of God. Reason may, indeed, perform this function badly; it may mistake for law what is not law, and it may be blind to the law that really is law. But, even when performing its function badly, reason cannot destroy its own function, nor alter the general law which makes it the mediator of the will of God. St. Thomas Aquinas had this general law in mind when he said: "When reason erroneously proposes anything as the precept of God, then to despise the dictate of reason is the same thing as despising the precept of God" (I-II, q. 19, a. 5 ad 2m). He illustrates this principle by an example that has been classic since St. Augustine, as an expression of the role of conscience: "If one were to believe that the

precept of the proconsul was the precept of the emperor, then, in defying the precept of the proconsul, one would be defying the precept of the emperor." Conscience is not, indeed, the "emperor," God; but it is truly a proconsul; and it remains such even when it garbles the emperor's commands.

Moreover, behind this statement of the role of conscience, even when it is erroneous, there lies a metaphysic of rational nature, which puts reason in an essentially mediatorial position between the will and its object: "Since the object of the will is that which is proposed to it by reason, as I have said, from the very fact that a thing is proposed by reason as an evil thing, the voluntary act, in going out to it, assumes the character of an evil act." And St. Thomas pushes this conclusion inexorably: "To believe in Christ is in itself a good thing, and necessary for salvation; but the will does not go out thereto, except inasmuch as it is proposed by reason. Consequently, if this belief be proposed by reason as evil, the will goes out to it as evil—not that it is evil in itself, but that it is evil by accident, in the manner of its apprehension by reason." And St. Thomas concludes with what is the universal law of nature in this matter: "Wherefore it must be asserted, as an absolute principle, that the voluntary act which is out of harmony with reason—whether reason be right or erroneous—is always evil."

Evidently, therefore, we must speak of two wills of God here. Initially, there is His supreme will that the reason of man and its practical judgments should be in harmony with the eternal order of reason which exists in His divine mind; in other words, God wills that man's conscience should be always right and true. There is also His will that the voluntary acts of man should be in harmony with his own reason and its practical judgments; in other words, God wills that man should act according to his conscience. But at times these two wills of God are not simultaneously observed. In acting according to conscience, man at times acts against the eternal order of reason, being in ignorance of it; his act, therefore, is in harmony with his conscience, but his conscience is not in harmony with the eternal reason of God. This is, of course, an eccentricity in the moral order, which illustrates at once the dignity and the misery of conscience. In the face of it, to keep our moral thinking straight, we must maintain



two principles. On the one hand, even when conscience is erroneous, it must be followed. On the other hand, even though we must follow an erroneous conscience, it still remains erroneous. These two principles must be maintained, lest we either assert that conscience is God, or deny that it is the voice of God.

This brings up a further question: If an erroneous conscience must be followed, just as a true conscience must be followed, is the status of the erroneous conscience the same as that of the true conscience? To answer, a distinction has to be made between what I shall call the moral function of conscience and its juridical function. I should explain the distinction as follows. The erroneous conscience, equally as the true conscience, assures the individual that his action is guiltless in the sight of God. For instance, the conscientious polygamist commits no sin by his polygamy; in the internal order of private morality, his action is good and even meritorious. However, unlike the right conscience, the erroneous conscience does not create any rights that are coactive against legitimate authority, within the field of that legitimate authority, or that could prevail in conflict with the rights of other men. For instance, the conscientious polygamist cannot, under appeal to conscience, claim the right to practice polygamy in an ordered society, in such wise that the prohibition of polygamy by civil law would be injurious—a violation of a right of conscience. To take another example, a man might sincerely believe that it is morally right to steal in order to give alms, and he would be personally guiltless in doing so. But his erroneous conscience creates no right that would induce in his victim a juridical obligation to cede his property, or in the State an obligation to let the theft go unpunished.

Obviously, the State cannot oblige a man internally to assent to the truth that polygamy, or theft for the purpose of giving alms, is morally wrong; for internal acts are outside the State's sphere of competence. But it can legitimately forbid a man to marry more than one wife at a time, and to steal for the sake of almsgiving; and it can prosecute him as a criminal, if he disobeys. By so doing, the State violates no right of conscience, because there is no right there to violate; the erroneous conscience has no juridical status, when it issues in acts repugnant to the natural law or to the common good or to the legitimate rights of others. Moreover, the State does not oblige

the polygamist to act against his conscience; it simply asserts its competence in the order of public morality, pronounces a moral judgment opposite to that of the polygamist, and vindicates the order of morality over which it is guardian. Finally, the action of the State is really medicinal; it notifies the individual that his conscience is erroneous, and thus puts the truth within his reach.

This distinction between the moral and juridical functions of conscience—its function of certifying acts as good, and of creating rights—is important. The problem of the erroneous conscience is relatively simple, when one considers the individual conscience, as it were, in isolation, as before God, who sees the heart and forgives its ignorances. But that is not the whole case. The individual is also involved in a whole system of social relationships, and his beliefs and acts have social repercussions. And when he projects himself into society by his actions, he finds himself in an order, a social and juridical order, based on law and vindicated by law. His "liberty" to act according to conscience comes under the control of the legitimate demands of this juridical order; and an erroneous conscience creates no rights, as against a legitimate order of law. It is a valid principle of liberty only in the internal forum of private morality, where the law is simply that conscience must be obeyed. But it is not a valid principle of liberty in the external forum of the social and juridical order, where there is also another law to be considered. The State cannot, indeed, permit itself to make mere religious or moral opinion a crime; on the other hand, it cannot permit others to make crime a mere matter of religious or moral opinion.<sup>9a</sup>

#### THE BASES OF THE RIGHTS OF CONSCIENCE

In the preceding pages I have discussed in summary fashion the general quality of the problem of religious liberty and the factors involved in it. We can now lay down the bases of its solution. But

<sup>9a</sup> How far does the possibility of an invincibly erroneous conscience extend? It is generally agreed, after St. Thomas (I-II, q. 94, a. 4 et 6), that no one can be invincibly ignorant of the first principles of natural law; but invincible ignorance of secondary precepts is possible, largely because the individual conscience can be obscured by widespread social custom; so today you may find many disputing in good faith about the morality of divorce, contraception, extramarital relations, the *mendacium officiosum*, etc.; this, of course, argues a degeneration in the collective conscience.

perhaps it would be well to restate the problem. It is the problem of determining the immunities and the positive empowerments enjoyed by the human person inasmuch as it is the image of God, a rational and free moral agent, destined both to the good life on earth and to a supratemporal beatitude, under the direction of the sovereignty and law of God, and under the direction, too, of civil law and authority, both of which laws are mediated to man by conscience. More briefly, it is the problem of the rights of conscience. In order to determine these rights, we have first to formulate the obligations of conscience, from which its rights flow. We shall, therefore, consider in turn the relations of conscience to God and the moral law and to the State and civil law, then the relations of the State to God and the moral law and to the consciences of its citizens.

### *Conscience Before God and the State*

The relation of conscience to God and the moral law is evidently wholly one of duty. As over against God and the eternal order of reason which He has established for the government of His rational creatures, conscience has no rights, but only the duty of unlimited obedience to God's known truth and will. The question of the rights of conscience over against God could not possibly come up, since in the notion of right, and its correlate, obligation, there is the notion of an altereity and independence, which certainly do not exist between Creator and creature. The creature is in total dependence, in its being and action, on the Creator. For our purposes here, this relation of dependence may be articulated into five obligations, which are fundamental in determining the rights of conscience. I shall merely state them briefly, without lengthy proof or explanation, and add a few comments.

1) Man has the obligation to search for the truth about God and about God's purposes for man, in all ways in which that truth is ascertainable, and to accept it when found.

2) Man has the obligation to worship God as God wills to be worshipped, in a manner befitting his own rational, dual, and social nature—hence by interior acts and by external acts in association with others.

3) Man has the obligation to tend to God, his last end, by obe-

dience to the law of nature, in all its prescriptions with regard to personal, domestic, and civil morality; and to this end, he has the obligation to foster in himself a clear and right conscience.

4) Man has the obligation to tend to his proximate end, which is the ordered perfection of his own person, and the promotion of the good of others through a social life befitting the dignity of human nature; and to this end, he has the obligation of protecting and developing the natural institutions of the family and civil society.

5) Man has the obligation opportunely and according to his responsibilities to assist his neighbor toward the knowledge of God and towards obedience to the law of God.

It is obvious that these obligations overlap somewhat. The first two of them call for a comment. In the initial obligation, to know God, there is expressed at once the dependence of the human mind on God, the First Truth, and the inner dynamism of the human mind itself, which is to seek God, the highest Truth, in all the ways in which He is knowable. In the order of nature, in which we have been moving, God and His purposes are knowable only from the facts of the natural creation, and especially from the nature of man and his history. In any hypothesis, man is obliged to seek the knowledge of God from these sources. However, in virtue of this fundamental and absolute obligation, man has a further, hypothetical obligation, which is to accept any higher knowledge of God and any higher law of God which God Himself, in His good pleasure, may make accessible to him. The obligation is hypothetical, since it comes into play only on the hypothesis of a supernatural revelation and the promulgation of a new positive divine law. And it is fulfilled by faith. However, the obligation of faith in a supernatural revelation has its root in the basic ethical obligation to know God. In this sense, the Vatican Council said: "Since man wholly depends on God, as on his Creator and Lord, and since created reason is entirely subject to Uncreated Truth, we are obliged to offer to God, when He reveals, the full homage of intellect and will, by faith" (*DB*, 1789). Deliberately to refuse this homage, when the fact of revelation is known, would be not merely a refusal of a new divine benefit but a violation of the law of nature itself.

The obligation to worship God, if it is considered as deriving solely from the natural law, is rather indeterminate as regards the manner of

its fulfillment. However, it certainly extends to acts of adoration, prayer, and thanksgiving, and also to some manner of external ritual action which will be an aptly symbolic expression of man's total dependence, in body and soul, on God. In the natural order, further specification of the obligation would be left to human law or custom. But here again, the absolute obligation to worship God as He wills to be worshipped creates a hypothetical obligation to worship Him in a particular way, if He reveals that a particular manner of worship is in fact His will. In either event, the same principle operates: it is for God to determine the manner of His own worship, either through the natural law (as completed by legitimate authority) or through a supernatural revelation.

The last three obligations of conscience to God hardly need comment. We may now turn to the obligations of conscience to the organized social community—the State and its members. In general, these obligations are based on two principles. First, civil society owes its origin to the law of nature, and has its end appointed by the law of nature; or, from another standpoint, man is by nature a member of civil society, and is obliged by nature to co-operate toward the natural end of civil society. Secondly, public authority in the organized community derives ultimately from God, and is the legitimate guardian of the juridical order. In the light of these principles, and remaining within the framework of the problem of religious liberty, we may distinguish the following three obligations of citizens.

1) As a member of society, man has the obligation of social charity that is, of fostering in the community the spirit of civic friendship and fraternity, based on respect for the human person and love of the common good.

2) As a member of society, man has the obligation of social justice, that is, of effecting, in co-operation with others, the organization of social institutions (political, economic, cultural, etc.) that will serve the ends of social charity—the common good of the persons who constitute society.

3) As a member of society, man has the obligation of reverencing public authority, inasmuch as it is of divine institution, and of obeying its just laws.

It might seem that only this third obligation is pertinent to our

present discussion; but there is a reason for including the preceding two. As a matter of fact, the most serious threat to religious liberty today, not least in the so-called democratic countries, derives from the social pressures generated, not merely by legal institutions, but by social institutions in the widest sense. The general ethos of society, and its institutional organization, have been almost completely secularized. The dynamism behind the whole social mechanism is not moral but material; and the mechanism itself throws its weight, not on the side of the moral conscience, but against it. This is perhaps particularly true in regard of family morality. These social pressures are inimical to true freedom of conscience. It is, of course, the obligation of public authority directly to promote a right institutional organization of social life, such as will support conscience in its striving for obligatory religious and moral aims. But an obligation in this regard devolves also upon every citizen, from the virtues of social charity and social justice. And the fulfillment of this obligation by all citizens is of paramount importance in assuring to conscience its integral freedom.

### *The State Before God and Conscience*

The fact that the organized social community and the public authority that governs it have obligations towards God follows from the fact that society owes its origin to God and has its end appointed by God. It is absurd to imagine that men in their association escape from the divine sovereignty that rules them in their separateness, or that society is superior to the law to which its members are subject, or that the conscience of the State is a god in its own right while the conscience of the individual is only the voice of God. On the contrary, society as such is an institution of nature; and as such it is subject to the law of nature. For our present purposes, we may distinguish the following three major obligations which natural law imposes on the State—that is, on organized society with its agencies of government.

1) The State has the obligation to acknowledge God as its author, to worship Him as He wills to be worshipped, and to subject its official life and action to His law.<sup>9b</sup>

<sup>9b</sup> This absolute obligation includes also the hypothetical obligation of accepting a higher belief, law, and mode of worship, if God reveals them as His will; of this obligation we shall speak in a later article.

2) The State has the obligation directly to promote public religion and morality as essential elements of the common good; and to this end:

a) it has the obligation to establish a regime of civil law that will confirm and sanction the juridical order of natural rights and duties;

b) it has the obligation to exhibit a positive patronage of religion and morality;

c) it has the right to restrict by juridical processes the spread of opinions, and to prohibit external actions, that tend to destroy in the community belief in God and fidelity to moral standards;

i) the exercise of this right, however, is regulated by the norms of political prudence, which may dictate toleration of errors and evils affecting the social order, when and insofar as such toleration is demanded by the common good, or required lest greater evils result.

One major comment has to be made on these obligations, namely, that all the obligations which the State owes to God are likewise obligations owed to the consciences of its own citizens. This fact is fundamental to a right ethical theory of the State. The State has a certain moral power from God over the human person as a member of the political community; but the human person remains totally under the power of God, both as a member of the political community and as a unique spiritual being. In other words, the same one person is at once subject to the moral law and to public authority. Consequently, it is of supreme importance that the State, in the exercise of its authority, should itself be subject to the moral law and not in conflict with it. The reason is that only thus can the conscience of the citizen be at peace, rejoicing in an inner harmony between the obligations it owes to God and the obligations it owes to the State. When public authority is in conflict with the authority of God, the conflict is necessarily felt in the conscience of the citizen, who is at once a religious man and a political man. He owes a duty to both authorities, the human and the divine; and when their injunctions are contrary, he is, as it were, interiorly divided. And this is a supremely flagrant violation of the primal right of conscience to its own integrity and peace—the right to be in harmony with itself because the authorities that have power over it are in harmony with each other, the inferior being subject to

the superior. When, therefore, the State presumes to despise the law that its citizens are bound to respect, it violates at once the virtue of religion and the virtue of justice. I should observe, too, that this same damage is inflicted on conscience when any social institution brings pressure on conscience in a direction opposite to that of its moral obligations to God.

I wish to insist on this principle of the necessary harmony that, in the interests of conscience, must prevail between the public authority (and the total manner of social organization) and the law of God, by a right subjection of the former to the latter. It is a basic ethical principle. It is also the principle on which the Church in the nineteenth century initially based its case against political liberalism and its theory of the relations between religion and society. Finally, it is the essential preliminary step towards at least understanding the Catholic doctrine of the so-called union of Church and State; for it is the ethical substratum of that doctrine. Ethical science dictates that there must be, so to speak, union (i.e., right moral relationships) between God and the State for the same fundamental reason that theological science dictates that there must be union (i.e., right moral and juridical relationships) between Church and State: "Est enim utriusque in eodem imperium."<sup>10</sup> This principle is cardinal in Catholic thought; it was repeatedly emphasized by Leo XIII, in discussing the Christian constitution of the State; and it must be emphasized now when we are discussing simply the ethical constitution of the State. The result of conflict between God and the State (or Church and State) is, in Leo XIII's strong phrase, "hominem secum facere digladiantem."<sup>11</sup>

Without pausing to apply this principle in detail, let me go on to the question of the State's attitude towards errors and evils within the community. It goes without saying, of course, that the State has no competence with regard to errors or evils that a man may cherish in his own private life. Personal religion and personal morality can be affected by the State only indirectly, through its direct concern with public religion and public morality. This latter concern, however, is obligatory. With reference to errors and evils that affect the social order the State cannot assume a position of "neutrality." If the

<sup>10</sup> *Libertas*, p. 108.

<sup>11</sup> *Immortale Dei*, ed. Desclée, II, 167.



State itself in its public capacity has no right to act as if there were no God, it can hardly agree that any of its citizens has a right so to act, in his public capacity. It is, therefore, morally obliged to assume the position that atheism and actions contrary to the natural law have no rights in the social order, and that they can claim no freedom of public advocacy or practice. To this position it is further compelled by its obligations to the common good. Actually, the whole social order is founded on the moral law, which itself is founded on the existence of God. Wherefore, to spread disbelief in God or immoral practice is to undermine the social order. The State cannot look on this with complacency; nor need it even stand by in disapproving impotence, when the undermining action is covered with the plea of "freedom of conscience," as it often is. Obviously, the State has no mandate to convert the atheist or the secularist; on the other hand, it has no juridical obligation to give him free rein in the public life of the community; for it has a mandate to guard the juridical order and the common good. And this mandate gives the State the right to restrict the propaganda of atheism or secularism and the practice of immorality.

The State retains this right in all circumstances. However, the exercise of the right in particular instances is another matter. Its existence is a simple matter of ethical science; its exercise is also a complicated matter of political prudence. The right itself derives from the State's obligation to the common good; its use depends on the practical judgment whether or not legislative suppression of this or that evil would, in a given set of circumstances, actually further the common good. In certain social contexts, the attempt to suppress certain errors or evils by legislative action would do more harm than good. It might undermine the authority of the State, if the laws proved impossible to enforce; it might create serious conditions of unrest and resentment, in the country itself or abroad; it might hinder the larger good of genuine social progress; it might enforce a dangerous trend towards excessive State controls; or, in a word, it might do damage to the very nature of the State as a co-operating unity of free men joined in the bonds of civic friendship; and this damage might not be counteracted by whatever good effect would follow on the suppression of this or that vice. In such circumstances, the precepts of political prudence come into play. In general, they dictate that

the State should choose the concretely better, if abstractly less good, means to its end, the common good; in particular, they require, as St. Thomas says, that "laws should be imposed on men according to their condition" (I-II, q. 96, a. 2 c). They may, therefore, demand that the State should permit certain evils rather than attempt to suppress them.

However, it must be emphasized that, when the State accords this permission to evil, it is acting at the dictates of political prudence; it is not fulfilling an obligation in justice to the evildoer, nor acknowledging any fictitious "right" of evil to have a place in the social order. Tolerance of evil is a prudential policy of action, based on a sound principle; and in this sense it may in certain circumstances be obligatory on the State. But the obligation is imposed on the State by its own concern for the common good, not by any concern for the "rights" of evil itself. Evil, and the erroneous conscience which prompts it, have no rights, as against legitimate authority operating in its own proper field.

In all this matter of legislative suppression or toleration of errors and evils, the principles are entirely clear and reasonable. But, in their concrete application, they raise many perplexing questions. When and how far and by what juridical means may the State suppress what particular manner of error and evil? And what are the limits of tolerance, and its conditions? And who is to be the judge of the ethical soundness and political prudence of State policies in the matter? Two extremes of policy are, of course, easily seen and condemned; on the one hand, there would be the complete abdication by the State of its own moral function, and, on the other hand, its indulgence in an intolerable *Kulturpolizei*. But in the center between these extremes, there is room for nice judgments.

I suppose that, if the issue is confined to the primary precepts of the natural law, no disagreement is possible; everyone will admit the necessity and value for the common good of the suppression of murder, arson, rape, libel, embezzlement, and, in general, all crimes of injustice. I should like to think that all men of religious principle would agree that the State has a right to restrain public atheistic propaganda, although I fear that a secularist concept of "democracy" has so obscured for some the moral function of the State that they

would be unwilling to admit this. There would be disputes if we were to move on to other matters—say, for instance, divorce. However, the disagreement here would not be over the principles that govern tolerance itself, but over the moral nature of this practice. Is it, or is it not, against the natural law? And, therefore, is a legal provision for divorce a genuine *permissio iuris* or only a *permissio facti*, a simple *lex tolerans* in the strict sense, which merely grants an impunity in the civil order? The fact that this type of dispute could arise argues, of course, a degeneration in the moral sense of the community, and, by the same token, increases the necessity of State tolerance of practices about whose moral nature its citizens are disagreed. And this leads to the conclusion that a high degree of State tolerance may prove a high degree of “external liberty,” as it is called, but it does not prove a high level of moral virtue in the community. When evils have to be tolerated for the common good, it must be that they exist on a large scale and in an institutionalized form.

However, it is not my purpose to discuss particular applications of the theory of legislative restraint and tolerance; moreover, I leave entirely aside the very special problems created by the hypothesis of a supernatural revelation and the existence of the Church. The point here is simply to clarify the fundamental ethical theory itself, as it is available in the “order of pure nature,” in which we are moving. And since this theory is so important and so generally misunderstood, I should like to add this rather lengthy statement of it:

With gentleness of judgment, reason weighs the heavy burden of human weakness, and likewise perceives what sort of course opinions and events are taking in this our age. Wherefore, while granting no rights to aught save truth and virtue, reason is not reluctant that public authority should permit some things that are actually at variance with truth and justice, for the sake either of avoiding some greater evil or of achieving or preserving some greater good. In His providence, God Himself, though His goodness is infinite and His power unlimited, permits evils to exist in the world, partly lest more far-reaching good be impeded, partly lest more serious evils result. And it is equitable that the rulers of society should imitate the ruler of the world. In fact, since human authority is not able to prohibit every single evil, it must, as St. Augustine says, ‘make many concessions and leave many things unpunished, which, however, divine providence will take cognizance of.’ However, if in circumstances such as ours human law can and even ought to show tolerance towards evil for the sake of the common good and only for its sake, nevertheless it neither can nor ought to approve evil or will it as

evil. Evil is a privation of good; it is therefore opposed to the common good, which the legislator ought to desire in the fullest possible measure. In this respect also, human law must take God for its model. In permitting evil to exist in the world, as St. Thomas says, God 'neither wills evil to be done, nor wills it not to be done; He wills to permit evil to be done—and this is good.' This statement of the Angelic Doctor succinctly puts the whole doctrine on the tolerance of evil. Furthermore, to keep our judgments straight, we have to admit that a community is farther from the ideal in proportion as it has within it more evils to be tolerated. We have also to maintain that, since tolerance of evils belongs to the precepts of political prudence, it must be kept within the limits set by its own cause, the public welfare. Consequently, if it damages the public welfare and brings greater evils on the community, it is not lawful to maintain it as a policy; for in that case there is no good reason for it.<sup>12</sup>

The quotation, of course, is from Leo XIII. I have taken the liberty of substituting in two places the word "reason" for the word "Church." I am quite certain that Leo XIII would not mind, since what he has here written is a pure piece of ethical philosophy and political wisdom, sufficiently commended by its own intrinsic reasonableness. It exhibits the primal concern of the moral philosopher—to keep completely unblurred the distinction between right and wrong, good and evil. It also exhibits the characteristic concern of the man of political wisdom—to keep clearly in view the concrete exigencies of the common good in a particular context. In this delicate matter, a balance of these two concerns shows the way at once to social virtue and to social peace.

In conclusion, I want strongly to underline the fact that, whether the State exercises its right to restrain social errors and social evils by juridical means, or chooses rather to permit them, its action in both cases is guided by the same principle—its obligations towards the common good, as the common good (whose exigencies are not uniform in all contexts) makes particular demands in particular communities. It is intolerable that either policy—restraint or tolerance—should be arbitrary. It is no less intolerable that either policy should seek any good inferior to the common good. And the most intolerable thing of all would be for either policy to be directed not at a good, but at an evil—either a coerced "morality" or an immoral "freedom." Finally, in the natural order which we are considering,

<sup>12</sup> *Libertas*, p. 115.

the only available standard for curbing possibly arbitrary or evil governmental tendencies is an enlightened community conscience, active in both governors and governed, capable of combining in a practical judgment a sensitiveness to the unalterable distinction between right and wrong, and an awareness of the variant requirements of the common good, as these are determined *secundum conditionem hominum*. History has proved that such a combination of moral sense and political wisdom is not easy to come by; but it remains the ideal.

Perhaps this will do for a summary discussion of a difficult subject; we shall have to return to it later, on another plane, when we take up the political problem of religious liberty, as it actually exists in the twin hypothesis of the supernatural order of salvation and of the contemporary religio-social scene.

#### THE RIGHTS OF CONSCIENCE

Having reviewed the obligations of conscience, we are now in a position to formulate its rights. I shall simply state them, without detailed development of all their applications. Incidentally, it is understood that what follows is not a complete statement of "the rights of man"; we are considering the particular problem of religious liberty, and hence we do not, for instance, concern ourselves with man's political and economic rights. For the sake of clarity, I shall distinguish the immunities or inviolabilities of conscience from its positive empowerments; but it is understood that the distinction is not adequate. Moreover, some of the assertions overlap a bit in content; but this is inevitable in the interests of fuller statement. Here, then, is the list:

##### I) The immunities of conscience:

1) Immunity from force and from the pressure of organized propaganda that would undermine belief in God or obstruct the search for religious and moral truth.

2) Immunity from force, legal enactments, governmental action, and the pressure of social institutions that would hinder obedience to conscience in private and domestic life.

These are juridical immunities, to which correspond obligations on the part of the State, the organized community, and individuals.

Together, they make up the inviolability of the inner forum of conscience and of private and family life.

II) The positive empowerments of conscience:

1) The right of personal autonomy, consisting of the right of man to conduct his own life as a moral agent, responsible to God and to the just laws of the community, in the direction of his full rational and human perfection and of his eternal destiny.

2) The right of domestic autonomy, consisting of the right of man to have the natural constitution of the family respected, to marry according to his own choice, and to educate his children.

3) The right of free association with others for religious purposes, especially for the purpose of social worship.

4) The right to propagate belief in God and the precepts of morality, by education and by the spoken and written word.

These rights imply corresponding obligations on the part of public authority, the organized community, and individuals, not to act so as to impair these rights, and so to act as to give them practical effect.

Some comments on this statement are necessary. First, we have already discarded the idea of any "rights of conscience" as against God; hence the above rights are asserted as existing over against the State. However, they are also asserted as inviolable against the pressure of such secularized or totalitarian social institutions as would tend to deny or diminish them. This is done in the interests of social realism. It has been the fashion since the French Revolution to assert the rights of man as if the individual lived in a social vacuum, with no intermediate institutions between him and the political power of the State. The consequent supposition was that the rights of conscience could be supported or destroyed only by public authority. Even in our own time, of course, we have had overwhelming evidence of the power of the State to destroy religious liberty; hence the statement above strongly sets limits to this destructive power. However, I hope that we have also come to understand that the rights of conscience can be safeguarded only by a total organization of society that will take its inspiration and its architectural lines from the moral law.

Hence I have tried to formulate the rights of conscience in such wise as strongly to suggest that they can be menaced by a variety

of intermediate institutions, and that they extend to the maintenance of morally sound institutions, notably the institution of the family, which in the natural order is the radiant center of religion and morality, by whose protection conscience itself is protected at certain crucial and vulnerable points. The further suggestion in this manner of formulation is that the rights of conscience are not adequately safeguarded simply by legislative act (although legislative sanction of the natural juridical order is imperative) but by the united effort of the entire community towards establishing a whole set of institutions that will be conformed to the moral law. In the past, especially in societies ruled by *laissez-faire* concepts, it was supposed that all one had to do in order to insure the rights of conscience was to see that the State kept its hands off religion. This was very naive. What happened was that, under the inspiration of secularism, the whole social order was in time so structured that the individual conscience, caught in the mesh of secularized institutions, could maintain its own moral integrity only with great difficulty, if at all. We know now, I hope, that organized society itself, and not merely public authority, can be a serious threat to the rights of conscience. And the removal of the threat from both quarters is our modern task. Hence I said that the rights of conscience impose corresponding obligations on the State, on organized society, and on individuals.

Secondly, it will be noted that I have put down the rights of the human person as an individual. The reason is that, in our purely ethical universe of discourse, only *free* religious associations exist; we are not considering the hypothesis of an obligatory religious society, existing by special divine ordinance. The rights of free religious associations are simply the projection of the rights of their individual members. Insofar as they are such, they are coactive against illegitimate invasion from any quarter. But they do not acquire any greater breadth or any *sui generis* validity simply because they are the rights of associations of men.

Thirdly, all the rights asserted are *natural* rights, inherent in the nature of man and in the nature of his relationship to the State. Their first source is not in civil law, but in natural law. Civil law has the duty of recognizing them, and of integrating them into its whole juridical system. It follows, therefore, that public authority has no

power to extinguish these rights. It can, however, subject their exercise to reasonable regulation, when their exercise carries the individual into the sphere of social life. So, for instance, the State may prescribe the licensing and registration of marriages, or forbid that belief in God be spread in places, at times, or in ways disturbing to public order.

It is, of course, always understood that the rights enumerated are integral to the juridical status of the right conscience; as I have already said, the erroneous conscience can claim no rights when it issues in acts repugnant to the law of God. For this reason, I include in the list no "right of irreligious propaganda," and no "right of association for antireligious purposes," etc. In no sense are these things rights of conscience, that flow from obligations of conscience. In certain contexts where the common good requires it, there may be granted a purely civil right to atheistic propaganda, i.e., a right whose single origin is a civil *lex tolerans*, which grants a right of impunity against legal prosecution, and allows such propaganda (*materialiter, sed non formaliter spectata*, as technical ethical terminology has it) a place within the ambit of the juridical order.

For a similar reason, I have not included in the list any right of immunity from political, economic, or social disabilities on grounds of religion. I am not denying that such a right may exist; the point is that, if it does, it does not flow from any obligation of conscience towards either God or the State, and therefore it is not a right of conscience in the proper sense. It would be strictly a political right or a civil right. That is, its source would be in the sheer fact of membership in the political community, which creates the right to equal treatment by the State (this is a political right) and also to equal treatment by its citizens (this is a civil right). Like all political and civil rights, the right of immunity from discrimination on religious grounds is subject to the juridically recognized exigencies of the common good. However, there is *per se* an injustice in such discrimination, i.e., in barring an individual or a group from equal participation in political, economic, or social life on the grounds of who they are (Jews, Catholics—also women, or Negroes), as distinguished from what they have done (criminal actions of one sort or another). Nevertheless, the injustice is not done to conscience as such, but to the



political or civil status of the citizen. I think it is important to keep this question of discrimination in sharp distinction from the question of the rights of conscience. Nowadays they are often confused.

At this juncture, a question arises. The obligations of conscience and its resultant rights have so far been defined only on the basis of natural law. However, this is not an adequate basis; from the beginning, it was admitted to be abstract. The fact is that Christ has come, and the law of the Gospel has been promulgated, and the Church occupies ground in the world. What, then, are the consequences for the rights of conscience of these three historical facts? It will be the task of another article to give a full answer. However, this much must be said here. The general effect of the divine institution of a supernatural order of salvation, by God's historical interposition of Himself into the order of the world, has been a certain humiliation of reason, willed by God in order that human life, which is a higher and broader thing than human reason, might be exalted to a new plane. For our present purposes, this humiliation may be said to consist of four elements. First, still remaining the voice of God, conscience is no longer the sole voice of God to men; another voice has spoken—that of the Word made Flesh. Secondly, the natural law, while still retaining all its validity, is no longer the complete norm of human action; it has been clarified and amplified by a higher law—that of the Gospel. Thirdly, the civil community, while still remaining a perfect and obligatory society with its proper autonomy, is no longer the sole such society; it is now subordinated to another perfect and obligatory society with a higher end—the Church. Finally, public authority is no longer the single external moral authority over man in his social life; it is still a legitimate authority, but it is itself subject in the sphere of religion and morals to a higher authority—that of the Church.

These four alterations in the scheme of things mean that reason and the law of nature have suffered a certain humiliation—a change, not in themselves but in their situation in the economy of human perfection and salvation. They have been lowered in the sense that they have lost, not indeed their validity, but their sufficiency as guides of man's religious and moral life. They have, therefore, suffered; but,

to adapt a phrase from the Letter to the Hebrews, they have been made perfect by suffering. Grace and the law of the Gospel have perfected nature and the law of reason; but the process of perfection always implies a self-transcendence, and, to that extent, a suffering inflicted on the former self. In general terms, this is a description of what has happened by reason of the advent of Christ, and of His mission of adding a new divine quality to human life and a new visible form to human unity.

One supreme theological problem now exists, and makes itself felt in all fields; it is that of harmonizing the order of reason with the order of faith—what we know by reason with what we have been told by revelation. Consequently, the essential part of the problem of religious liberty consists in harmonizing the solution reached on the ethical plane in terms of reason and the natural law with the solution reached on the theological plane in terms of the Church and the law of the Gospel. The only point I want to insist on here is that the process of harmonizing these two solutions into an organic synthesis is not, and cannot be, accomplished at the cost of destroying one of them. Concretely, this means that the rights of conscience as determined by the natural law remain in their full validity under the Christian law. Conscience still has these rights, undestroyed and undiminished, because it still has the obligations from which they flow. The difference is that conscience has also acquired a new set of more specific obligations under the New Law; and consequently, the old statement of its rights, while still valid, is no longer adequate. I shall deal later with the new set of obligations; at the moment, I want to emphasize the continuing validity of the old set of rights. And perhaps one can best see their enduring validity by examining the structure of the case which the Church made against the theory of religious liberty proposed by nineteenth-century Liberalism. Actually, the foundation of this whole case was the doctrine of the obligations and rights of conscience as determined by the natural law, even apart from any appeal to revelation or the authority of the Church. Moreover, a brief contrast of the Liberal theory with the *jusnaturalist* theory (already set forth) might open the way to points of agreement in the matter of religious liberty among all religious men, who have a "good will" towards the establishment of society on its right moral bases.

## FREEDOM OF RELIGION IN THE LIBERAL THEORY

Liberalism was, of course, a revolution, a faith, a way of life, a philosophy that spawned all sorts of theories (most of which are now on the ashheap)—a great, shouting, sprawling thing, that practically defies definition, as it defied almost everything else. However, we can know all we here need to know about it from the encyclical *Libertas* of Leo XIII, which summed up a century of hot argument, and made entirely clear the reason for the Church's rejection of the Liberal theory of religious liberty. The Liberalism that this document envisaged and condemned maintained two fundamental principles: first, the absolute autonomy of the individual reason, and, secondly, the juridical omnipotence of the State. These two positions might seem contradictory, but they were, as everyone knows, innerly connected in terms of the supreme Liberal dogma of the deification of man, which asserted that it is man's prerogative "flatly to refuse the sovereignty of the most high God, and to throw off all obedience in public affairs, and even in private and domestic affairs."<sup>13</sup> The first principle of Liberalism was borrowed from rationalism, of which Liberalism was merely the moral and social application: "The first principle of rationalism is the sovereignty of human reason, which, refusing the obedience due to the divine and eternal reason, and decreeing that it is sole master of itself, constitutes itself alone the ultimate origin and source and judge of truth."<sup>14</sup> Transposed onto the field of religion, this principle issues in another: "The individual is entirely free to profess whatever religion he pleases, or none at all";<sup>15</sup> "it is equally permissible for the individual, at his own pleasure, to worship God or not to worship Him."<sup>16</sup> This is the Liberal concept of "freedom of conscience," in its application to the individual.

Liberalism also transferred the principle of the absolute autonomy of reason to the social field, where it appears as the juridical omnipotence of the religiously "neutral" State: "As the individual reason is the sole guide and norm of action in the private life of each man, so the collective reason must be the same in the public life of the community. Hence the many rule all; and a popular majority is the author of all rights and obligations."<sup>17</sup> This political liberalism

<sup>13</sup> *Libertas*, p. 117.<sup>14</sup> *Ibid.*, p. 104.<sup>15</sup> *Ibid.*, p. 108.<sup>16</sup> *Ibid.*, p. 114.<sup>17</sup> *Ibid.*, p. 105.

was universally maintained: "There are some more moderate, if hardly less inconsistent thinkers who assert that the life of the individual must indeed be governed by the divine law, but not the life of the State; in public affairs it is quite all right to depart from the commands of God, and to pay no attention to them in the making of laws."<sup>18</sup> In other words, religion is a purely private matter. It is absurd to think of the State having a religion; for religion has no relevance to society—its laws, government, organization, etc. The State is above all religion, and therefore above all religious groups. All of these exist in the community by its grant of right; and it regards the lot of them with equal indifference, as being, for all it knows or cares, "equally good, equally to be approved, and equally pleasing to God," if there is a God. Graciously, therefore, as the author of all rights, the State grants them freedom to exist, while retaining always for itself the same right to limit their freedom that it has with regard to any other kind of voluntary associations found within its borders. Consequently, "freedom of religion, in its application to the State, means simply this, that there is no reason why the State should publicly adopt, or be inclined to adopt, any worship of God; it must not prefer one to another, but hold all to be of equal right, without even considering [the wishes of] the people, should the people happen to be Catholic."<sup>19</sup> In these days when there is much concern about "founding freedom of religion in religion itself," it is well to note that Liberalism maintained the theory of the religiously "neutral" State and of the "freedom" of all religions within the State on a profoundly irreligious principle—the principle that the State (or the collective conscience of the majority) is of its nature atheist. The Liberal State would grant equality to all religions, not out of respect for the consciences of its citizens or concern for their common good, but out of complete indifference to religion and morality as such.

This was the theory of liberty of conscience and of cult that was condemned in *Libertas*, in 1888. The famous encyclical of Gregory XVI, *Mirari Vos*, in 1832 had already called it a *deliramentum*, non-

<sup>18</sup> *Ibid.*, p. 107. I do not speak here of the third type of Liberalism with which *Libertas* deals; it maintained the subjection of the State to natural law but not to the law of the Gospel, and was held in different forms by some of the so-called Catholic Liberals. The doctrine itself will later come up for discussion.

<sup>19</sup> *Ibid.*, p. 109.

sense, an absurdity.<sup>20</sup> Pius IX echoed the term in *Quanta Cura* in 1862.<sup>21</sup> Its use with regard to the great modern liberty has, of course, evoked a bewildering flood of *deliramenta* from the Liberals, and from Protestants, too. But these two Popes had clearly in mind what they were condemning (as many of their critics do not), and the term "absurdity" fitted it exactly; for it was in its essence "contrary to reason." Leo XIII elaborated the absurdity by showing the radical conflict between the liberal theory of religious freedom and the first principle of ethical reason:

The nature of human liberty, in whatsoever field, both in individual men and in associations of men, both in those who command and in those who obey, includes in its concept the necessity of submission to the supreme and eternal reason, which is the authority of God in His commands and prohibitions. This most rightful sovereignty of God over men does not in the slightest destroy or diminish liberty, but on the contrary protects and perfects it; for the true perfection of every nature lies in pursuing and achieving its own end, and the highest end to which human liberty can aspire is God.<sup>22</sup>

The Liberal concept of freedom, as implying a denial of the divine sovereignty, was indeed an ethical absurdity. And to this ethical nonsense the Church did not need to oppose some weighty authoritarian dogma, but a simple doctrine of conscience that made ethical sense. She was saying, in effect: "Man is not God, but man. Conscience is the voice of God, not God Himself. Freedom is an obedience to conscience, not an absolute self-sovereignty. The State has a true moral authority, but it is not the divine Majesty itself." These were the principles underlying the Church's case against Liberalism; and if the Liberals could have relaxed from their dogmatism long enough to consider them, they might have appeared quite reasonable.

I should add here that the Liberal theory also involved a particularly dangerous brand of political nonsense, in its naive assumption that, provided the State were atheist in itself and neutral towards all religious groups, the freedom of conscience of its citizens would somehow automatically be insured. Actually, this theory amounted in the concrete to the imposition, by State authority, of the religion of

<sup>20</sup> ASS, IV (1863), 341.

<sup>21</sup> *Pii IX Pontificis Maximi Acta* (Ex Typographia Bonarum Artium, s.d.), Pars I, Vol. III, 690.

<sup>22</sup> *Libertas*, p. 103.

secularism, through all sorts of legal and administrative action in many fields, notably in that of education. Furthermore, it gave free rein to a secularized institutional organization of society that inevitably victimized the consciences of its citizens under pressures from which they had a right to immunity. One sees a strain of this typically unreal social thinking even in a man like Thomas Jefferson, and in his famous dictum, beloved of all individualistic thinkers: "It is error alone which needs the support of government. Truth can stand by itself." What the good Jefferson, like all the Liberals, overlooked was the simple fact that when error actually has the support of government, the truth has hardly a chance to survive at all, much less to influence the organization and the course of social life. This fact, I take it, has been overwhelmingly demonstrated in modern totalitarian regimes. And this fact is an integral part of the ethical theory that asserts the right of the citizen to have his government acknowledge the sovereignty of God and exhibit a positive patronage of religion and morality. The Liberal theory was condemned by the Church not least because of its flagrant violation of this right.

One should not speak of Leo XIII's condemnation of Liberalism without calling attention to the care with which he salvaged the one grain of important truth that it contained (unwittingly, and for the wrong reasons). I mean its assertion that, as against the State, man has a natural right to freedom of conscience. Leo XIII flatly rejects, as ethically absurd, the theory that "it is equally within the free choice of the individual either to worship God or not to worship Him"; but he then goes on to say:

But [freedom of conscience] can also be understood in this sense, that, within the political community, a man is free to follow the will of God and do what it commands, out of a moral sense of his duty, without having obstacles put in his way. This is a true freedom, worthy of the sons of God. It is the most reasonable safeguard of the dignity of the human person, and it is superior to all force or injury. This freedom has always been desired by the Church and is particularly dear to her.<sup>23</sup>

This same freedom was asserted by Pius XI against Nazi totalitarianism: "The believing man has an inalienable right to profess his faith and to practice it in ways appropriate to it. Laws which suppress

<sup>23</sup> *Libertas*, p. 114.

or make difficult the profession and practice of this faith stand in contradiction with a law of nature.”<sup>24</sup> On another occasion, Pius XI asserted the same right against communistic totalitarianism, he put among the natural rights of man, “the right to tend to his last end along the way traced out by God.”<sup>25</sup> And, understood in the sense of these pronouncements as asserting a right against the State, the first of the “Four Freedoms” asserts a natural right: “The freedom of every person to worship God in his own way everywhere in the world,” The grounds of this right are those on which I have already dwelt: “This Christian liberty is a testimony to the supreme and most rightful dominion of God over men, and to the first and highest duty that men owe to God.”<sup>26</sup> Always we come back to the same ethical principle, that man’s freedom of conscience derives from his necessary obedience to the law of God; it has no other source or measure: “A freedom that is not responsible to God and subject to His will is altogether unintelligible.”<sup>27</sup>

One further significance of the Liberal denial of the relevance of religion to social life must be briefly indicated here; I mean the fact that this dogma was the dynamic behind the nineteenth-century movement for what is called the separation of the Church from the State. I think one must understand this, if one is to read intelligently the nineteenth-century papal utterances on religious freedom. Fundamentally, in protesting against separation of Church and State, as demanded by the Liberals, the Church was protesting, not simply against the termination of certain juridical arrangements, much less against recognition of the rights of conscience, but against national apostasy from Christianity. The protest was basically against the separation of religion from the political, social, and educational life of the community. This fact explains the special vehemence of the protest. And an understanding of this fact might lead to a better grasp of the fundamental values involved in that whole long controversy.

<sup>24</sup> *Mit brennender Sorge*, AAS, XXIX (1937), 160; in view of the appeal made here to the natural law, I do not think that the term “der gläubige Mensch” can be taken to mean solely *fidelis* in the theological sense of the term.

<sup>25</sup> *Divini Redemptoris*, *ibid.*, p. 78; I translate from the Italian: “diritto di tendere al suo ultimo fine nella via tracciata da Dio”; the Latin reads: “iura. . . ad finem ultimum via rationeque contendendi, sibi a Deo propositum.”

<sup>26</sup> *Libertas*, p. 114.

<sup>27</sup> *Ibid.*, p. 117.

One sees at times the assertion that the achievement of religious liberty—the equality of all religions before the law, as a matter of right—was the great achievement of the Protestant spirit, its triumph over narrow and rigid Catholic authoritarianism, and its successful defiance of the ecclesiastical arrogance that had held the free human spirit in bondage to an outworn dogmatic system—and all the rest of it. This, of course, is journalistic polemic. Serious students see otherwise; in fact, even a man like Harold Laski can say: “There is certainly greater religious freedom [now] than at any other time [this was written in 1933!]. But when the causes of this change are analyzed, it will be found that the growth of religious freedom is a function of the growth of religious indifference.”<sup>28</sup> I do not know if our Protestant brethren are anxious to assume the credit for this latter growth. Perhaps they will be willing to let Liberalism have it—the Liberalism whose main dynamic was rationalistic secularism, and whose initial principle was the religious indifference of the State, on the premise of the irrelevance of religion to society. At all events, all men living today have inherited the temporal order which Liberalism, and all the reactions it inspired, managed to create; and all men view, as part of their heritage, the massive fact of a tremendous social apostasy—the escape of national and international life from the control of moral standards. I think that all men of good will are concerned today over this apostasy, and are willing to admit that we have not yet solved the problem it puts to us.

Perhaps it might be one small step towards a solution of the problem, inasmuch as it is a social problem, if all men of good will could agree in repudiating some of the principles that helped to create the problem. We might agree, for instance, in passing a common condemnation on certain principles that conspired to launch false ideas of religious freedom, and that are still held in two great modern camps, the secularist and the totalitarian. I would suggest condemnation of these two propositions:

- 1) Human reason, without any regard whatsoever to God, is the sole arbiter of truth and falsity, right and wrong; it is a law unto itself, and it is able by its own powers to secure the welfare of men and nations.

<sup>28</sup> “Liberty” *Encyclopedia of the Social Sciences*, IX, 445.



2) The State, as the origin and source of all rights, possesses a juridical competence that is circumscribed by no limits.

In condemning the first proposition we would be condemning the notion that freedom of religion means freedom from religion, the right to worship God or not to worship Him as individual fancy may dictate. We would be setting man's freedom in its right framework of natural law. Furthermore, we would be condemning the idea that the temporal welfare of men and nations, which consists primarily in good social institutions, can be secured without reference to the sovereign will of God and without the aid of His divine power. We would, therefore, be condemning the idea that freedom of religion means the deliverance of the processes of education and of social organization into the hands of secularists. We would, in a word, be outlawing the secularist concept of religious liberty as a social dynamic, and substituting for it a right ethical concept of the freedom of conscience under law, divine and human. And this would be no small social gain.

In condemning the second proposition, we would be condemning the totalitarian concept of the State, as the single object of religious worship and as the bearer of a religion which alone is free—the religion of national *Macht*, with all its varied premises. We would be asserting the sovereignty of God over nations, and the subjection of their legislation, government, and whole public life to the demands of the moral law. Furthermore, we would be asserting that man has certain natural and inalienable rights, which do not owe their origin to the State and may not be denied or diminished by the State. We would, therefore, be forbidding the State to warp the reason of its citizens, especially the young, by organized propaganda of political or racist or other ideological myths, or to hinder its citizens' obedience to conscience by such an organization of social life as is incompatible with the law of God. In a word, we would be validating the concept of the State as the servant of the human person and not its master. And this, again, would be no small social gain.

Not wishing to be disingenuous, I should add that these two propositions are taken from the *Syllabus* of 1864 (propositions 2 and 39). But I should like to think that nowadays intelligent men of good will are not inclined to shy off from them just for that reason. For my

own part, I am thinking of what the history of the world might have been, if all men of good will had been at one in condemning these propositions in 1864. At all events, it might enhance the dawning promise of a better world, if they could agree to condemn them in 1945.

This negative agreement (so to speak) might have another value. It is one thing that Catholic and Protestant doctrines of religious liberty should differ in the theological order; it is quite another thing that Catholics and Protestants should suspect and distrust each others' "designs" in the temporal order, as regards modes of social and political organization, insofar as these are related to variant concepts of religious liberty. Obviously, a complete basis on which this mutual distrust and suspicion might possibly be dismissed and concord and harmony established cannot be stated till after fuller discussion of the whole issue. However, at this juncture, I shall hesitantly risk the use of "tags," and say that, as Protestants distrust Catholic "authoritarianism," so Catholics distrust Protestant "liberalism." Yet there is, or should be, a sense in which both Catholics and Protestants condemn both authoritarianism and liberalism. They condemn the totalitarian authoritarianism that denies the natural rights of conscience, and they condemn the secularist liberalism that denies the natural obligations of conscience.

I have attempted a statement of these natural rights and obligations. And I feel that its acceptance by Protestants would do much to assure me that they are more decisively dissociated from secularist views of conscience and society than I am inclined at the moment to think they are. On the other hand, I should also like to think that its assertion by Catholics (my statement would, I think, be approved by all Catholics, since it is little more than a paraphrase and development of Leo XIII) would do something to assure Protestants that we are more decisively dissociated from totalitarian views of conscience and society than they are perhaps inclined at the moment to think we are. Here the two propositions I have suggested for agreement may have their value. They were originally the essence of the Catholic condemnation of secularist Liberalism, with its twin theories of the absolute autonomy of conscience and of the juridical omnipotence of the State. How far do Protestants agree in condemning these two theories and their common root?