
THE CHALLENGE OF BELIEF

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Suppose you believe that the ice on your local pond is thinner than it looks. Very likely you will decide not to skate today. If you happen to be a humanitarian sort, you will warn others as well. You might even contact the local authorities and demand that they put up a sign forbidding anyone from going out there until the condition of the ice improves. Each of these actions would be entirely natural, and, in many circumstances, predictable.

Readers may recognize this hypothetical as a gloss on an example deployed by the philosopher Gilbert Ryle in his clever demonstration that to believe a proposition p means not simply to have a particular state of mind concerning p but also to have a disposition toward a particular set of actions that are consistent with p .¹ Even critics who consider “disposition” the wrong concept concede that Ryle is on to something: when we speak of “belief,” we are invoking a far more complicated set of concepts than simply an evaluation of the likelihood that p is true.²

Specifically, Ryle argues that “believe” is what he calls a “motive word,” an explanation for one’s disposition to say certain things or act in certain ways.³ The concept therefore is quite different from what we call knowledge (although, as Ryle says, they play in the same field). But it is also different from guessing, or from calculating probabilities. Belief plays a unique role in human thought. And religious belief, in important ways, provides the apotheosis of the concept.

Consider a particular proposition p_I : “The spirit that guides my destiny must be nourished with the blood of a freshly killed animal six times a year, or the spirit will die and my life will end in disaster.” Anna believes p_I . Anna is a member of a faith community that also believes p_I . Anna, however, is also a member of a political community, a majority of whose members decide that killing animals is wrong. Her fellow citizens explain: “You are free to believe p_I if you choose, but you may not act on that belief.”⁴

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¹ GILBERT RYLE, *THE CONCEPT OF MIND* 134-35 (1949).

² See, e.g., P. M. S. Hacker, *Of the Ontology of Belief*, in *SEMANTIK UND ONTOLOGIE: BEITRÄGE ZUR PHILOSOPHISCHEN FORSCHUNG* 189 (Mark Siebel & Mark Textor eds., 2004).

³ RYLE, *supra* note 1, at 134.

⁴ A burden that arises in this way, not because of the demands of belief but because of the intersection between those demands and the contrary commands of the state, is what the philosopher Peter Jones calls an “extrinsic” burden. See Peter Jones, *Bearing the Consequences of Belief*, 2 *J. POL. PHIL.* 24, 38 (1994). In contrast, an “intrinsic” burden is

According to Ryle, from Anna's point of view the statement is incoherent. Her belief in p_1 involves a disposition to act. If Anna believes that her guiding spirit will die if not properly nourished, she will naturally seek to nourish it, and, if she is a humanitarian sort, will help other believers to nourish their guiding spirits too. If she is sufficiently kind and loving, she might even try to persuade others who do not believe p_1 that they, too, should believe p_1 .

Therefore to say that Anna is not free to act as her belief in p_1 disposes her is, in practice, to say that she is not permitted to believe p_1 . We might well have good reasons for prohibiting Anna from acting on her belief; but we should not pretend that we are nevertheless permitting her to hold it. What we are doing instead is telling Anna that we have decided that p_1 itself is wrong and using coercive force to keep her from acting as belief in p_1 disposes her to act.⁵

The example comes to mind in response to Ronald Dworkin's final book, *Religion Without God*. Until his untimely death last year, Dworkin was perhaps our foremost philosopher of law, and certainly among the staunchest defenders of liberalism. The book is beautifully written, intellectually challenging, and powerfully argued. Its central thesis is admirable and rich. But its understanding of religious belief is flawed, and the flaw carries over into the discussion of constitutional law.

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Dworkin's thesis is stated in his title. He seeks both to describe and to defend the concept of religion without God. In Dworkin's telling, both today's militant atheists and today's adamant religionists are missing a larger truth. Theistic religion is but one way of responding to our realization that there is such a thing as objective value, that "the universe and its creatures are awe-inspiring," and that "human life has purpose and the universe order."⁶ In understanding the theistic religions, says Dworkin, we should separate their science – their accounts of creation, for example – from their values – their "convictions about how people should live and what they should value."⁷ Once

one created entirely by the commands of the religion itself but unaffected by the laws of the state. Thus, for example, an Orthodox Jewish male's belief that he must keep his head covered is entirely intrinsic until he joins the military and is subject to its uniform regulations, at which point the burden becomes extrinsic. The Supreme Court is unpersuaded that this particular burden demands constitutional exemption. See *Goldman v. Weinberger*, 475 U.S. 503, 509-10 (1985). The Department of Defense, however, has grown more sensitive to this burden over time. See DEP'T OF DEF., INSTRUCTION NO. 1300.17, at 4(b) (2014), archived at <http://perma.cc/3MLP-M9RQ>.

⁵ Robert Cover urged that we acknowledge openly that regulatory decisions that make it difficult or impossible to practice a religious belief have the practical effect of destroying that belief. See Robert M. Cover, *Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4, 33 (1983).

⁶ RONALD DWORKIN, *RELIGION WITHOUT GOD* 1 (2013).

⁷ *Id.* at 15.

we strip away the science of the religions, we discover that “[w]hat divides godly and godless religion . . . is not as important as the faith in value that unites them.”⁸

Dworkin’s initial purpose in this exposition is to persuade the reader that one can find a religious sensibility in our awe and wonder before the beauty of a great work of art, the symmetry of the subatomic world, or the unimaginable perfection of the universe. He insists that naturalism is the enemy, and that it is simply wrong to adopt a vision of life in which truths (including moral truths) are all contingent, whether biologically or culturally. Rather than dividing the world between theists and atheists, we should admit the category of “religious atheists.”⁹

One senses here the influence of critical theory, in particular Max Horkheimer, who in his short essay, *Thoughts on Religion* – penned between the world wars – pondered what religion, as it declines, leaves in its wake: “Part of the drives and desires which religious belief preserved and kept alive are detached from the inhibiting religious form and become productive forces in social practice.”¹⁰

Dworkin readily concedes that his central idea – that religion is “deeper” than God – isn’t new. He acknowledges his debt to Einstein and Spinoza. He also argues, although I am not sure he is right, that the same notion is immanent in Tillich. (It’s interesting that he doesn’t here delve into Kierkegaard.) The analogous claim, that theistic religion holds no monopoly on the sacred, features prominently, for example, in my colleague Paul W. Kahn’s provocative monograph, *Political Theology*.¹¹ Both Kahn and Dworkin are writing in part to defend a pluralistic public space, although Kahn is interested in sovereignty and the political realm, whereas Dworkin is interested ultimately in law reform.

Dworkin would like to set aside our furious battles over the scope of religious freedom under the Free Exercise Clause, and replace the theistic understanding of religion that dominates constitutional thought with a broader right to “ethical independence”¹² – a right to decide for oneself how to approach a “felt conviction that the universe really does embody a sublime

⁸ *Id.* at 29. It is important here to appreciate what Dworkin means by “value.” The part of religion involving value “does not depend—cannot depend—on any god’s existence or history.” *Id.* at 9. As Dworkin himself implicitly acknowledges, no serious religionist is likely to agree.

⁹ *Id.* at 5.

¹⁰ MAX HORKHEIMER, *Thoughts on Religion*, in *CRITICAL THEORY: SELECTED ESSAYS* 129, 131 (Matthew J. O’Connell trans., 1972).

¹¹ PAUL W. KAHN, *POLITICAL THEOLOGY: FOUR NEW CHAPTERS ON THE CONCEPT OF SOVEREIGNTY* 23 (2011). I am not criticizing *Religion Without God* for not citing Kahn’s book, which, unless I miss my guess, was published after Dworkin delivered the Einstein lectures on which Dworkin’s monograph is based.

¹² DWORKIN, *supra* note 6, at 130.

beauty”¹³ – a right, according to Dworkin, that represents an interpretive conception superior to theistic religion.

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How would the accommodation of ethical independence work in practice? Evidently, almost as badly as the accommodation of religion has worked up until this point. Dworkin doesn’t join the statisticians who believe that the religious objector should always lose; but it isn’t easy to identify the principles that explain the distinctions he draws.

For Dworkin, the paradigmatic case is *Employment Division v. Smith*,¹⁴ where the Supreme Court effectively rejected a claim by adherents of the Native American Church for an exemption allowing them to use peyote in their religious rituals.¹⁵ Accommodationists, myself included, have attacked the decision for years, but Dworkin thinks the case was rightly decided. The right to ethical independence, he says, “does not protect the religious use of a banned hallucinogenic drug when that use threatens general damage to the community.”¹⁶ Under the right to ethical independence, “religions may be forced to restrict their practices so as to obey rational, nondiscriminatory laws that do not display less than equal concern for them.”¹⁷ That line might almost have been lifted from Justice Scalia’s majority opinion in *Smith*: “We have never held that an individual’s religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.”¹⁸

Exceptions, writes Dworkin, might be granted by the legislature, when they “can be managed with no significant damage to the policy in play.”¹⁹ His choice of example is striking, given the current political moment. Perhaps, Dworkin suggests, a Catholic family-services agency that refuses to place adoptive children with same-sex couples should gain an exemption, given the centrality of the Church’s position on sexuality to its teaching, provided that there are sufficient alternatives that comply with the relevant nondiscrimination law.²⁰ But Dworkin is crystal clear that exemptions should be few.

How to explain the distinction among results? Here, Dworkin is fascinating:

¹³ *Id.* at 65.

¹⁴ 494 U.S. 872 (1989).

¹⁵ *Id.* at 890.

¹⁶ DWORKIN, *supra* note 6, at 135.

¹⁷ *Id.* at 136.

¹⁸ *Smith*, 494 U.S. at 878-79.

¹⁹ DWORKIN, *supra* note 6, at 136.

²⁰ *Id.* This is an analogue to the Mrs. Murphy exception to the Fair Housing Act of 1968, and proposes an optimal rather than a perfect level of enforcement.

So government may not forbid drug use just because it deems drug use shameful, for example; it may not forbid logging just because it thinks that people who do not value great forests are despicable; it may not levy highly progressive taxes just because it thinks that materialism is evil. But of course ethical independence does not prevent government from interfering with people's chosen ways of life for other reasons: to protect other people from harm, for example, or to protect natural wonders, or to improve the general welfare. So it may forbid drugs to protect the community from the social costs of addiction, it may levy taxes to finance roads and aid the poor, and it may protect forests because forests are in fact wonderful. It may protect forests for that reason even though none of its citizens thinks a life wandering among them has any value.²¹

The quotation contains a great deal of meat, but let us focus for a moment on that last example, the protection of forests. If the state can override ethical independence by taxing its people to support forests on the ground that forests are good, why can't the state also override ethical independence by taxing its people to support churches on the ground that churches are good? One could of course make the case that the goodness of forests is less contestable than the goodness of churches. I am skeptical that this is so, but, even if it is, the difference would seem to be one of degree. Or one could make the case that supporting churches violates the rights of those who object on ethical grounds, but this is precisely what Dworkin does not want to say. After all, there are also those who would object to supporting forests on ethical grounds – and their wishes and desires, he makes clear, do not matter.

One could perhaps make the claim that a forest, unlike a church, is a public good that confers a net social benefit but, absent state support, will be underproduced. Churches, on the other hand, might be said to reflect the market for religion: if people demand them and are willing to pay for them, then they will be built. I think this argument is essentially correct, but it is easy to see how one could reach a different conclusion. If I happen to believe that churches confer a net social benefit and yet are being underproduced, the same argument applies. Similarly, I might like forests and yet think them overproduced.

For Dworkin, in any case, none of this is the point. What matters is that “forests are in fact wonderful.” This is precisely the sort of objective truth that he has always sought in his work. It is even a truth, presumably, on which theistic and atheistic religionists might agree. But notice what happens when the government's truth comes into conflict with the opposing truth claims of the religionist: in all but a handful of cases, whether under Dworkin's model or the Supreme Court's, the religionist loses.²²

²¹ *Id.* at 130-31.

²² *See, e.g.,* *Lyng v. Nw. Indian Cemetery Protective Ass'n*, 485 U.S. 439 (1988); *Goldman v. Weinberger*, 475 U.S. 503 (1986). Recent victories of religious objectors are not to the contrary. *Hosanna-Tabor Evangelical Lutheran Church and School v. Equal*

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Here we might profitably return to the discussion of belief that opened the Essay. If belief indeed involves a disposition to act, and the government, in assertion of its own truth, forbids the action toward which the believer is disposed, the practical effect is to outlaw the belief itself. This is essentially what the legal scholar Robert Cover had in mind in referring to such conflicts as potentially “jurispathic” – meaning that a defeat in an accommodation case will chip away at the protesting religion’s supporting narrative.²³ The theologian Stanley Hauerwas refers to this process as the majority’s use of the coercive violence of law “to force others into their story.”²⁴ The religious narrative matters because it is through the narrative that the disposition is formed. The believer, by participating in the story, learns how to behave.

In defending Ryle’s view that a belief in its essence inclines the believer toward a particular course of action, I do not mean to suggest that any particular belief is therefore beyond criticism. Beliefs can be wrong. As Ryle says, “like aversions and phobias they can be unacknowledged; like fashions and tastes they can be contagious; like loyalties and animosities they can be induced by tricks.”²⁵

Still, it would be a strange religious freedom indeed that protected only beliefs the state happened to approve. And I take it that Dworkin would insist that to override a particular belief is not necessarily to treat the belief as wicked. But that is precisely where the problem lies. As Cover points out, many religious groups counted otherwise as liberal filed amicus curiae briefs supporting Bob Jones University when the federal government acted to take away its tax-exempt status because of its religiously grounded policies of racial discrimination.²⁶ This should hardly be surprising. In Christianity, belief is understood much as Ryle understands it: not as a mental assent to a particular proposition but as a commitment to live in a particular way. The first words of the Apostles’ Creed are “I believe in God.” According to the Reverend J. G. H. Barry, in his well-known *Meditations on the Apostles’ Creed*, the words imply “trust[ing] the God who has trusted me by making me his own child and sending me forth to serve him.”²⁷

Employment Opportunity Commission, 132 S. Ct. 694 (2012), for example, involved a federal overreach so absurd that the government was silly even to attempt it. And *Burwell v. Hobby Lobby Stores, Inc.*, No. 13-354, 2014 WL 2921709 (U.S. June 30, 2014), rested on statutory and not constitutional grounds.

²³ See Cover, *supra* note 5, at 40-44.

²⁴ STANLEY HAUERWAS, *The Church as God’s New Language, in* SCRIPTURAL AUTHORITY AND NARRATIVE INTERPRETATION (Garrett Green ed., 1987), *reprinted in* THE HAUERWAS READER 142, 145 (John Berkman & Michael Cartwright eds., 2001).

²⁵ RYLE, *supra* note 1, at 134.

²⁶ See Cover, *supra* note 5, at 62-63 (discussing *Bob Jones Univ. v. United States*, 461 U.S. 574 (1983)).

²⁷ J. G. H. BARRY, *MEDITATIONS ON THE APOSTLES’ CREED* 36 (2d ed. 1916).

The Christian isn't tasked with having a certain state of mind. The Christian, sent forth to serve God, is tasked with behaving a certain way. Christian belief leads to Christian action. This was the concern of the Bob Jones amici, who sought to defend not the school's theology,²⁸ but the school's right to its theology. The amici didn't support racial segregation; they worried that a government able to punish Bob Jones for its policies might one day take aim at the Christian core – or the core of other religions. As laws and regulations proliferated, more religious narratives might face destruction.

With this in mind, let's go back for a moment to Anna, the believer in p_1 , who has been told by other members of her political community that she may not kill animals to nourish her guiding spirit, even though she believes that her life will otherwise end in disaster. I doubt that Dworkin would have much trouble upholding the community's judgment. Let's imagine then a conversation between Dworkin and Anna, who seeks to understand why she cannot follow her belief:

Anna: "My personal spirit is going to die if I am not permitted to nourish it."

Dworkin: "The law isn't directed at you, so it doesn't deny you any equal concern. Also, to let you kill animals when others can't would mean discrimination in your favor, to say nothing of significant damage to an important and collectively determined social policy."

Anna: "My life will be ruined."

Dworkin: "No, it won't."

Anna: "It won't?"

Dworkin: "You only think that because you believe p_1 ."

Anna: "That's exactly why I think it!"

Dworkin: "That's a private matter. The state cannot act as if p_1 is true. Remember that p_1 is only one of many ways to experience the felt sense of awe before the wonder of the universe. You may not be able to act as your belief in p_1 disposes you to act, but that should not decrease your sense of awe; that is where true religion is found."

Anna: "You're saying that your monism is prior to my monism."

Dworkin: "Only because it is. I mean no disrespect."

Anna: "Then you're effectively prohibiting me from believing in p_1 ."

Dworkin: "You can believe p_1 if you like. Your fellow citizens are constraining you only from certain acts."²⁹

²⁸ Cover, *supra* note 5, at 28.

²⁹ For a thoughtful discussion of this conflict, see Gerhard van der Schyff, *Ritual*

Perhaps I have Dworkin wrong in this little dialogue, but I don't think so. He sees belief as Hume did, as simply a state of mind, an arrangement of the mental faculty.³⁰ To think otherwise would require Dworkin to accept the notion that the government must accommodate bona fide religious beliefs, unless the statute in question is narrowly tailored to further a compelling state interest – an argument that he explicitly rejects.³¹

In the absence of an accommodation principle, however, religious freedom becomes meaningless – literally so.³² For the believer, it is the connection with God that gives meaning to life, and the relevant freedom is the freedom to live in a manner expressive of that connection.³³ The liberal state, however, has chosen instead to carve out a tiny sphere in which the religious can act freely – *Hosanna-Tabor*³⁴ comes to mind – and to pat itself on the back for having done so. “We shall do you the kindness,” says the liberal state, “of allowing you to choose your own ministers and other worship leaders. Are we not generous?” The corollary is implied, and on occasion acted upon: “Step outside the sphere we have assigned you, and you will be punished.”

And of what does the punishment consist? Just this: Treating as untrue the religious belief that disposes the believer to act.

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I could take issue with other parts of *Religion Without God*. I would reject, for example, Dworkin's assumption that religious convictions should automatically be conceptualized as chosen.³⁵ One proposition on which Christianity, Judaism, and Islam all agree is that we do not choose God; God

Slaughter and Religious Freedom in a Multilevel Europe: The Wider Importance of the Dutch Case, 3 OXFORD J.L. & RELIGION 76 (2014).

³⁰ DWORKIN, *supra* note 6, at 26-27.

³¹ *Id.* at 134-35.

³² See, e.g., Michael W. McConnell, *Accommodation of Religion: An Update and a Response to the Critics*, 60 GEO. WASH. L. REV. 685 (1992); Michael W. McConnell, *Justice Brennan's Accommodating Approach Toward Religion*, 95 CALIF. L. REV. 2187 (2007); Michael W. McConnell, *Religious Freedom at a Crossroads*, 59 U. CHI. L. REV. 115 (1986). My own view is also strongly proaccommodation. See, e.g., Stephen L. Carter, *Religious Freedom as if Religion Matters: A Tribute to Justice Brennan*, 87 CALIF. L. REV. 1059 (1999); Stephen L. Carter, *The Resurrection of Religious Freedom?*, 107 HARV. L. REV. 118, 122-23 (1993).

³³ Contrary to Dworkin's assumption, see DWORKIN, *supra* note 6, at 112-13, it needn't be – and usually isn't – the fear of God's wrath that drives the believer's compliance with Divine Edict. The liberal notion that believers follow God because they are frightened of him has been nicely skewered by George Steiner. See GEORGE STEINER, *NOSTALGIA FOR THE ABSOLUTE* (1974).

³⁴ *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694, 696 (2012).

³⁵ See Stephen L. Carter, *Must Liberalism Be Violent? A Reflection on the Work of Stanley Hauerwas*, 75 L. & CONTEMP. PROBS. 201 (2012).

chooses us. To claim otherwise, as Slavica Jakelić has put it, “marginalize[s] their major feature, belonging, which individuals most often experience as ascribed, not chosen, and understand as fixed, not changeable.”³⁶ Similarly, the philosopher Peter Jones, who sees one’s religious account of the world as constitutive of one’s cultural understanding, writes: “The idea of ‘choosing’ a culture has the same absurdity about it as the idea of trying to start a tradition.”³⁷

Dworkin’s contention that moral judgment is prior to religious experience is at the heart of his argument. But the contention isn’t new, and isn’t even theologically objectionable – in Christian terms, at least. A version of the same claim formed the basis of the Reverend Samuel Clarke’s famous attack on Hobbes in his Boyle Lecture back in 1704.³⁸ The approach to religious establishment that Dworkin briefly outlines is intriguing, but in the end fails to advance the ball. Once religious freedom is understood to encompass more than theistic religion, he wonders, must the antiestablishment rules be understood the same way?³⁹ Dworkin deserves credit for even raising the issues, for it is the shaky conceit of most constitutional scholars – and most judges – that the word “religion,” which appears only once in the First Amendment, is nevertheless to be interpreted as though it appears twice, carrying one definition for the purposes of establishment, and another for the purposes of free exercise.

But when, a few pages later, Dworkin actually applies his freedom of ethical independence to the problem of establishment, he winds up in roughly the same place as American courts already have. He concludes, for example, that religious symbols don’t belong on public property “unless these have genuinely been drained of all but ecumenical cultural significance.”⁴⁰ About secular symbols that might offend against ethical independence, he says not a word.

Dworkin comes next to public education. He swiftly disposes of classroom prayer.⁴¹ Intelligent design gives him more pause. On first blush, he concedes, one might suppose that instruction in Darwinian evolution necessarily involves the assumption “that one conception of how to live, of what makes a successful life, is superior to others.”⁴² Thus the teaching of evolution might offend

³⁶ SLAVICA JAKELIĆ, COLLECTIVISTIC RELIGIONS: RELIGION, CHOICE, AND IDENTITY IN LATE MODERNITY 8 (2010).

³⁷ Jones, *supra* note 4, at 31.

³⁸ Samuel Clarke, *A Demonstration of the Being and Attributes of God*, in *A DEMONSTRATION OF THE BEING AND ATTRIBUTES OF GOD AND OTHER WRITINGS* 3, 87 (Ezio Vailati ed., 1998).

³⁹ DWORKIN, *supra* note 6, at 115-16.

⁴⁰ *Id.* at 138.

⁴¹ *Id.* at 140-41.

⁴² *Id.* at 141-42. Here Dworkin is influenced by, but also responding to, Thomas Nagel. See Thomas Nagel, *Public Education and Intelligent Design*, 36 PHIL. & PUB. AFF. 187

against the right of ethical independence of dissenting students and their parents.

Only this turns out not to be true – not, at least, “[i]n the circumstances of American culture.” In Dworkin’s view, the distinction between teaching evolution and teaching intelligent design suddenly rests on the motive of their respective supporters. And he evidently knows what those motives are. Supporters of intelligent design want to impose their worldview on others. But it is “an implausible hypothesis” that a similar desire motivates supporters of evolution.⁴³

The discussion of education highlights Dworkin’s troubling habit of directing casual pejoratives toward religionists with whom he disagrees. “The zealots have great political power in America,” he thunders, referring, he explains, to “the so-called religious right.”⁴⁴ But the so-called religious right is moribund, largely in retreat since the collapse of Moral Majority more than a decade ago, the domestication of Christian Coalition, and the decision of many other groups – Focus on the Family comes to mind – to steer far clearer of politics than in the past.⁴⁵ On issue after issue, from same-sex marriage to abortion, the supposedly powerful zealots are going down to defeat. From Dworkin’s tone, one might think that religion in general and Christianity in particular had never been anything but antithetical to the values of the Enlightenment. But in many ways (true, not all!) the church was foundational to the Enlightenment, a point established long ago by historians, among them Peter Gay,⁴⁶ Brian Tierney,⁴⁷ and of course, most famously, Harold Berman.⁴⁸

Dworkin has gone to a great deal of trouble to understand the physics that so fascinates him but has done very little to understand the villains of his essay. Thus, when referring to the advocates of intelligent design, he has this to say: “[T]hey are part of a national campaign of the so-called religious right to increase the role of godly religion in public life.”⁴⁹ This is the common liberal telling of the tale, but it is, as I and others explain elsewhere, almost certainly wrong.⁵⁰ If one troubles to talk to the advocates of such programs, what one discovers is a disagreement over epistemology. The advocates are heavily parents who don’t want the state force-feeding their children what they see as

(2008).

⁴³ DWORKIN, *supra* note 6, at 143.

⁴⁴ *Id.* at 8.

⁴⁵ See STEPHEN L. CARTER, *DISSENT OF THE GOVERNED: A MEDITATION ON LAW, RELIGION, AND LOYALTY* 9 (1998).

⁴⁶ See generally PETER GAY, *THE ENLIGHTENMENT* (1996).

⁴⁷ See generally BRIAN TIERNEY, *THE IDEA OF NATURAL RIGHTS* (1997); BRIAN TIERNEY, *RELIGION, LAW, AND THE GROWTH OF CONSTITUTIONAL THOUGHT 1150-1650* (1982).

⁴⁸ See generally HAROLD J. BERMAN, *LAW AND REVOLUTION* (1983).

⁴⁹ DWORKIN, *supra* note 6, at 142-43.

⁵⁰ See, e.g., CARTER, *supra* note 45, at 8; STEPHEN L. CARTER, *GOD’S NAME IN VAIN* 7 (2000).

lies.⁵¹ Indeed, from the point of view of parents who believe, for example, in the young-earth theory, it is the secular zealots who have their hands on the levers of power and are intent on wiping out religions they don't like.

It's always nice when a story has a villain. But Dworkin's argument is perfectly compelling and provocative without one. Indeed, having spent so many pages in critique of *Religion Without God*, I should reiterate what I said at the start: that his overall project in the book is an admirable one. The bridge he is trying to build is a bridge well worth building, and I can think of no finer engineer for the project than Ronald Dworkin. Religion and science can live in concord, and so can theistic and nontheistic understandings of the ways and reasons that the universe inspires and awes us. *Religion Without God* reads like the prologue to a mighty and important project. It would have been a wonderful thing had Dworkin lived long enough to finish the story.

⁵¹ CARTER, *supra* note 45, at 42-43.