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PLURALIST ESTABLISHMENT: REFLECTIONS ON THE ENGLISH EXPERIENCE

*Robert E. Rodes, Jr.**

What I have to offer here is a historical account.¹ Before I embark on it, it might be a good idea for me to say something about why I am doing it, and what my account has to say to people who are not historians by vocation or avocation, and who are not followers of the religion or citizens of the country whose story I propose to tell.

My claim here is this: The medieval European church-state synthesis based public life on a religious understanding of human beings and their affairs. The English decided, at the Reformation in the sixteenth century, to update the old synthesis rather than scrap it and start over as both Protestants and Catholics did on the Continent. To carry out that decision, the English had to cope with an increasing plurality of religious beliefs and practices; this they succeeded in doing without abandoning the basic religious conception of human beings and their affairs on which the original synthesis was based. Their approach contrasts with the one taken in most other countries, including our own, where we have coped with religious pluralism by privatizing religion and trying to base our public life on secular views of human beings and their affairs. As these secular views come to seem more and more inadequate, the English alternative may turn out to have lessons for all of us.

That is my basic outline. Before starting in on it, I believe I owe it to this institution and this audience to say something more about my first point, the religious conception behind the medieval synthesis. The Jewish experience of the medieval religious synthesis was, of course, a bitter one. As a student of that synthesis, and I would have to say in some part a believer in it, it is hard for me to know what to say about that experience. Perhaps the best I can say is this—and I realize how little it is. The essential value of the medieval synthesis

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¹ This paper summarizes material from a forthcoming book, which will fully develop some of the themes introduced. Earlier versions of the theories developed here can be found in my *Pluralist Christendom and the Christian Civil Magistrate*, 8 *Cap. U.L. Rev.* 413 (1979), and works cited there, and at some points in my book *Law and Liberation* (1986). For anyone who would like to learn more about the historical developments described here, I recommend W.G. Addison, *Religious Equality in Modern England* (1944) as a clear and readable introduction. H.S.Q. Henriques, *The Jews and the English Law* (1908) is the best work I have found on the Jewish experience of these developments.

was that it gave public recognition to the transcendent significance of human beings and their affairs. It required the rich and powerful to recognize the poor and humble as equal inheritors of the kingdom of Heaven. It supported the sanctity of marriage and the family and consecrated the whole round of everyday life—work and rest, planting and harvest, birth and death. It would seem obvious that if you are going to recognize the transcendent significance of human beings as such you cannot limit your recognition to people who share your faith. In theory, I suppose the medievals would have conceded the point. I cannot account for their failure to put it into practice. For some reason, what the transcendent significance of human beings entails, in the way of sharing a civil society with people who do not share your faith, has been a hard lesson to learn. How one nation learned it in the course of three or four centuries is a major part of the story I have to tell.

From the time the Jewish communities were expelled from England in 1290 until the Protestant Reformation in the 1500s, no Englishman belonged to a different religious body from any other Englishman. The so-called Lollards, forerunners of Protestantism, probably formed into groups in one place or another, but they do not seem to have organized themselves into a separate church as we understand separate churches today.

Meanwhile, the one church was integrated into the national life in innumerable ways. In addition to landed endowments owned outright, church bodies collected one-tenth of all the agricultural produce in the country and one-tenth of all the increase of livestock every year. They fetched it out of the fields, and sued for it in church courts if they were not allowed to take it. Church officials travelled around the country and imposed petty punishments on the sins of the people, and even on their failure to attend church. All marriage and probate business was handled in church courts—marriage because it was a Christian sacrament, probate because of an ancient connection between wills and religious preparations for death. Once dead, everyone except suicide victims and excommunicated persons was buried in the churchyard with a priest in attendance and a sexton ringing the church bells.

Aside from making the priest read different services out of a different book, the Reformation changed nothing in this situation. The one church of the nation was changed around by an act of Parliament, but it was still the same church, it still performed the same functions, and people were still compelled to belong to it, pay for it, marry in it, take their probate and matrimonial business to its courts, and be bur-

ied in its precincts. A nineteenth-century Anglican controversialist, when asked where his church was before the Reformation, responded: "Where was your face before you washed it this morning?"

As the status of the medieval church had never been seriously challenged, the legal compulsions by which it was supported did not have to be very efficient. After the Reformation, as theological controversy became more vigorous, the old compulsions were resisted more often in the name of conscience, and were entirely inadequate to cope with the resistance. In the late 1500s, Parliament began adopting more severe measures, only to meet with more determined resistance. A whole series of harsh penalties on religious deviance remained on the statute books for a century, and in some cases for two. But the local magistrates who bore the main burden of law enforcement were reluctant to prosecute decent and inoffensive neighbors for their religious practices. They tended to look the other way.

Because of this toleration, various groups of dissenters organized into cohesive and self-identified bodies or alternative churches. We may date the English Roman Catholic body from about 1570, when the pope excommunicated the queen, and when newly trained priests started coming over from the Continent and telling believers in the old religion to stop going to the new Anglican services. Most of the major Protestant denominations separated out and developed their own organizations in the 1660s, when it became apparent that their views would not prevail in the Church of England. Jews, expelled in 1290, were let back in by Oliver Cromwell in the 1650s. After the monarchy was restored in 1660, the government continued to protect them, although on paper they were subject to the same penalties as anyone else who failed to conform to the Church of England.²

By the late 1600s, the familiar triad of Catholics, Protestants, and Jews was in place in England outside the national church. The national church, meanwhile, continued to occupy most of the ground, and continued to be the only legal religion—just as the medieval church had been. Other forms of religion were illegal, but were prosecuted only sporadically if at all.

A series of enactments over the next century dissipated the illegality of religious deviation. Most forms of Protestantism were made legal in 1688 by the famous Act of Toleration.³ Under this Act, if you

² See the historical discussion appended to the reports in *Lindo v. Belisario*, 161 Eng. Rep. 530 (Con. London 1795), *aff'd*, 161 Eng. Rep. 636 (Arches 1796); *Goldsmid v. Bromer*, 161 Eng. Rep. 568 (Con. London 1798).

³ An Act for exempting their Majesties' Protestant Subjects, dissenting from the Church of England, from the Penalties of Certain Laws (The Act of Toleration), 1688, 1 W. & M., ch. 18.

said you were a dissenter from the Church of England and took certain oaths to show you were not a Roman Catholic, you were exempt from being prosecuted for religious deviance. If you took further oaths to show you were a Trinitarian Protestant, you could also teach and preach and hold meetings for religious worship. In either case you were still subject to compulsory church attendance, but you could go to your own church instead of the Anglican church. Compulsory church attendance as such was not repealed until 1846,⁴ but no one enforced it after 1688 except against an occasional conspicuous Sunday drinker.

It was the terms of the 1688 Act of Toleration, incidentally, that required the Methodists a century later to form a separate church.⁵ They were founded as a movement within the Church of England, but they violated some of the old laws against unauthorized meetings for religious worship. To avoid those laws, they had to bring themselves under the 1688 act, and to do that they had to say that they were dissenters from the Church of England. With great reluctance, that is what they did.

Roman Catholics remained illegal for most of the eighteenth century, although no one bothered them except when the vicissitudes of politics brought their loyalty to the government into question. There were many people who thought that the Roman Catholic Stuart family had a better claim to the throne than the reigning Georges, and Roman Catholics were naturally—but quite wrongly—suspected of being more favorable to the Stuarts than other people were. They were finally made legal in 1778, after the death of Prince Charles Edward Stuart.⁶

Unitarianism was not strictly legal until 1813. The 1688 Toleration Act excluded anyone from its benefits who preached or wrote against the doctrine of the Trinity, and there was a Blasphemy Act of 1697 that purported to punish any Christian (but not any Jew) who denied the Trinity.⁷ Most Unitarian doctrine evolved gradually in old Presbyterian churches that had not had strict doctrinal standards for their members. The development was not much noticed until the

⁴ An Act to Relieve Her Majesty's Subjects from certain Penalties and Disabilities in regard to Religious Opinions, 1846, 9 & 10 Vict., ch. 59.

⁵ J. Wesley, *John Wesley's Journal* 402-03 (Nov. 3, 1787) (1949).

⁶ An Act for relieving His Majesty's Subjects professing the Popish Religion from certain Penalties and Disabilities imposed on them by an Act made in the eleventh and twelfth Years of the Reign of the King William the Third, entitled, *An Act for the further preventing the Growth of Popery*, 1778, 18 Geo. 3, ch. 60.

⁷ An Act for the more effectual suppressing of Blasphemy and Profaneness (The Blasphemy Act), 1697, 9 & 10 Will. 3, ch. 32.

early 1800s, when Trinitarians and Unitarians began fighting over the possession of church property. That was when Parliament made Unitarianism legal.

Generally, trusts created to support a form of worship were enforceable if the religious worship was legalized. Where a form of worship was not strictly legal, but just let alone by the authorities, trusts to maintain it were sometimes lost. A Jewish trust was turned over to Anglicans for this reason in 1754. Jewish trusts were not made enforceable until 1846. Similarly, Unitarian trusts were being turned over to Trinitarians until 1844. Since most Unitarian churches had been founded before Unitarianism became legal, the courts decided that the founders must have meant them to be Trinitarian. Parliament remedied this injustice in 1844.⁸

The statutes legalizing Roman Catholic worship expressly refrained from legalizing endowed masses and religious orders—elements of Roman Catholicism that the Anglican church had rejected with special vigor at the Reformation. Trusts for these purposes remained illegal until 1926, although lawyers found pretty effective ways of getting around the illegalities.

By the first years of the nineteenth century, one phase in the development of religious pluralism was just about complete. It had become virtually impossible for anyone to get into trouble for practicing or not practicing a religion, or for holding or not holding a religious opinion. Also, most, though not all, religious bodies were fully protected in the enjoyment of their property, and even the ones that were not fully protected found ways to be secure most of the time. But full economic, political, and social equality for non-Anglicans was yet to come. They were excluded from many public offices, they were subject to taxation for the support of a church they did not believe in, and they had to rely on that church for the performance of many of the most important functions of civil society. In the course of the nineteenth century, these grievances, by and large, were met.

Protestant dissenters, although they were allowed in Parliament—they had to be, because Presbyterian Scotland sent representatives to Parliament just as England did—were excluded in England from positions in the civil service and in municipal government. Parliament removed these disabilities in 1828.⁹ Roman Catholics, besides

⁸ An Act for the Regulation of Suits relating to Meeting Houses and other Property held for religious Purposes by Persons dissenting from the United Church of England and Ireland (The Dissenter's Trust Act), 1844, 7 & 8 Vict., ch. 45.

⁹ An Act for repealing so much of several acts as imposes the Necessity of Receiving the Sacrament of the Lord's Supper as a Qualification for certain Offices and Employments, 1828, 9 Geo. 4, ch. 17, § 5.

being subject to all the disabilities of Protestant dissenters, were excluded from Parliament as well. Parliament relieved them of all these disabilities in 1829¹⁰—evidently in the vain hope of keeping the Irish content with being governed by England.

Jews were the last religious group to be given full political rights. They were excluded from Parliament and from most public offices because all the qualifying oaths had to be taken on "the true faith of a Christian." Parliament adopted a statute in 1858 allowing anyone professing the Jewish religion to omit those words.¹¹

In 1865, a new form of oath was adopted for all purposes of qualification for office. It did not refer to the faith of a Christian, but it did end with the words "so help me God." Atheists, therefore, could not take it. Legislation existed permitting Quakers and certain other religious groups to take an affirmation without reference to God instead of taking an oath, but that helped only those who belonged to one of the specified groups. Not until 1888 was legislation finally adopted permitting anyone at all to take an affirmation instead of an oath, and therefore making everyone, whatever his religion or lack of it, eligible for public office.¹²

It was an obvious grievance for non-Anglicans to have their tax money used to support the Anglican church. In 1818, Parliament appropriated a million pounds to the church as a thank offering for the successful conclusion of the Napoleonic Wars. This was followed by another half million in 1824. That was the last grant to the church out of the national treasury. Local taxes (the English call them "rates") could still be levied to support local churches, but the locals had to vote for them, and dissenters were making more and more trouble about doing so. These rates were made voluntary in 1868.¹³

Tithe, the old medieval share of the crops and livestock, continued to be collected, but it was not exactly a tax, and it was not exactly for the support of the church. It resembled a rent charge on land. Furthermore, fully one-third of it was in lay hands, and had been since Henry VIII took over all the monasteries and gave their property to his friends. So tithe could be thought of as private property, and to nineteenth century English politicians private property was sacred whether or not the church was. In 1836, tithe was put into a new form, making it resemble a rent charge even more closely than it did

¹⁰ An Act for the Relief of His Majesty's Roman Catholic Subjects, 1829, 10 Geo. 4, ch. 7.

¹¹ An Act to provide for the Relief of Her Majesty's Subjects professing the Jewish Religion, 1858, 21 & 22 Vict., ch. 49.

¹² The Oaths Act, 1888, 51 & 52 Vict., ch. 46.

¹³ The Compulsory Church Rate Abolition Act, 1868, 31 & 32 Vict., ch. 109.

before. It endured in this form for another century, until it was bought off with government bonds.

The state had taken the function of poor relief from the church before 1600. After Henry VIII confiscated the religious houses, the necessary funds had to be collected from lay landowners, and only the justices of the peace had the power to make them contribute. With that one exception, all the civil functions that were performed by the church before the Reformation were still being performed by the church in 1830. The church was probably performing them about as well or as badly as the government would have done, but it seemed anomalous to make people seek major social amenities from a church to which they did not belong.

Accordingly, a number of changes were made during the middle decades of the century. Under an act of 1836, it became possible to marry before a government registrar, or before a non-Anglican clergyman with a registrar in attendance.¹⁴ Previously, everyone but Quakers and Jews had to marry in Anglican churches. Probate and matrimonial litigation was taken away from the church courts in 1857 and turned over to a new secular court.¹⁵ The secular and ecclesiastical functions of local government, which had been united from time immemorial in a single body called the parish vestry, gradually split apart as a modern system of local government developed.

In the case of charitable and educational institutions, a general program of reform and development included steps in the direction of religious equality. If you are a reader of Trollope, you will know something of the state of old charities in the early nineteenth century. All kinds of medieval foundations had been misappropriated over the centuries in exquisitely ingenious ways. These charities were reformed in the 1850s and 1860s under various Acts of Parliament.¹⁶ Part of the reform was to do away with any preference for beneficiaries who belonged to a particular religion unless such a preference was expressly provided in the founding documents. Since the founding documents were written when everyone was of the same religion, there was not much preference expressly provided.

Until the 1850s, the great universities of Oxford and Cambridge were open only to Anglicans, and, with a few exceptions, only Anglican clergy could teach there. After 1836, non-Anglicans could

¹⁴ An Act for Marriages in England, 1836, 6 & 7 Will. 4, ch. 85.

¹⁵ An Act to amend the law relating to Probates and Letters of Administration in England, 1857, 20 & 21 Vict., ch. 77; An Act to amend the Law relating to Divorce and Matrimonial Causes in England, 1857, 20 & 21 Vict., ch. 85.

¹⁶ See, e.g., The Endowed Schools Act, 1869, 32 & 33 Vict., ch. 56; The Charitable Trusts Act, 1860, 23 & 24 Vict., ch. 136; The Charitable Trusts Act, 1853, 16 & 17 Vict., ch. 137.

take degrees in the new University of London, but they were excluded from Oxford until 1853,¹⁷ and from Cambridge until 1856.¹⁸ Parliament abolished religious tests for students in those years, but it took further acts in 1871¹⁹ and 1877²⁰ to open the faculties to non-Anglicans. After those Acts, anyone in the universities except the chaplains could be of any religion or no religion at all.

As for secondary education, the old secondary schools—the public schools you read about in stories—were generally founded under church auspices. They had chapel services and religious instruction, but an 1860 act, and a number of earlier court decisions, required the schools to give liberal exemptions to children whose parents requested them.²¹

Beginning in 1833, the government began seriously subsidizing primary and secondary education. When it did so, the government found schools in place, mostly under Anglican church auspices, teaching about half the children of school age in the country. It started making matching grants to these schools, as well as to other schools under dissenting or Roman Catholic auspices. In return for the grants, the government required some supervision over secular instruction, and it required that children whose parents so requested be exempt from religious services and instruction.

In 1870, the government provided for schools in any place where there were not enough private or church schools to serve all the children. In those schools, there could be Bible reading, but no denominational instruction or services. This combination of government, church, and private schools has continued to the present. The government is taking more control of the church and private schools than it had before. The church schools can still have religious instruction and services according to their particular doctrines and practices, but they must exempt children whose parents request them to. The government schools have moved toward an ecumenical syllabus of religious instruction—again with exemption if the parents request it. The latest statute requires the syllabus to be “broadly Christian” except in places where the number of non-Christian students requires a different approach.²²

In the past, the main grievance of non-Anglicans regarding bur-

¹⁷ The Oxford University Act, 1854, 17 & 18 Vict., ch. 81, § 43.

¹⁸ The Cambridge University & Eton College Act, 1856, 19 & 20 Vict., ch. 88, § 45.

¹⁹ The Universities Tests Act, 1871, 34 & 35 Vict., ch. 26, § 3.

²⁰ The Universities of Oxford and Cambridge Act, 1877, 40 & 41 Vict., ch. 48, §§ 58, 59.

²¹ *Attorney Gen. v. Cullum*, 62 Eng. Rep. 948 (Ch. 1842); *The Endowed Schools Act*, 1860, 23 Vict., ch. 11.

²² *The Education Reform Act*, 1988, ch. 40, §§ 84-88.

ial of the dead involved the use of Anglican services. Anyone of any religion could be buried in the Anglican churchyard of the parish where he had lived or died, but he had to be buried by the Anglican priest with an Anglican service. Nothing stopped religious denominations from having their own graveyards and many did. Then, in 1853, when the growing population required new burial space in many places, local governments were empowered to establish additional cemeteries with space allocated to the Church of England, and other space allocated to other denominations or to no denomination at all. For many reasons, however, non-Anglicans still preferred the Anglican churchyards or the Anglican portions of the new cemeteries. In some cases, it was a matter of keeping families together. In others, it was a matter of using free space in the churchyard instead of paying for space elsewhere. In either event, the family might want to use their own services or no services at all. An act of 1880 allowed them to do this.²³

With this course of legislative and administrative accommodations, England became for practical purposes a pluralist society in which all religions were equally respected, and their adherents had equal opportunity to participate in the national life. In many ways, though, the legal position of the Church of England was about the same as it had been since the Reformation, and in some ways about the same as it had been since the Anglo-Saxons. It was still an estate of the realm. Its laws were part of the law of the land. Its enactments continued to appear in the statute books; and the decisions of its courts, in the law reports. Its bishops continued to sit in the upper house of Parliament, and virtually all citizens continued to be entitled to its ministrations. The usual way of talking about this situation was to say that the Church of England was "established" whereas other churches were not.

The meaning of "establish" has undergone quite an evolution over the years, and we need to examine it carefully. Originally, it merely meant set up, the way you establish a business or a P.T.A. The Anglo-Saxon kings before they were Christian established temples because they wanted to keep themselves and their subjects in good standing with the higher powers. When they turned Christian, they established churches for the same reason. When they established their churches, they arranged for bishops and for approval from the pope because that was part of the religion they had come to accept. The medieval kings organized and expanded all the institutions that their predecessors had established—the church neither more nor less

²³ The Burial Laws Amendment Act, 1880, 43 & 44 Vict., ch. 41, § 6.

than the courts or the militia or the towns. Then Henry VIII and Elizabeth I reformed the church that their earlier predecessors had established and their later predecessors had carried on.

Thus, in the early 1600s, when Roman Catholics and Protestant dissenters began organizing themselves, it was natural to refer to "the Church of England as by law established" to contrast the official body with the private enterprise bodies taking shape around it. A set of canons adopted by the Church of England in 1604 used the term in this way. It continued to be used in this way until the eighteenth century, when the idea of multiple churches became more commonly accepted.

In 1736, Bishop William Warburton published a book called *The Alliance Between Church and State*. His theory was that churches are inherently independent bodies, and inherently independent of the state. However, if among all the churches on the market there is one that commands the allegiance of a majority of the population, it is appropriate for the state to make an alliance with it for mutual advantage. The church with which such an alliance has been struck is said to be established; other churches are not. This view of the matter is entirely unsupported by the historical evidence, but it was eminently useful, and it eventually became the accepted account of what it means for a church to be established.

The great advantage of Warburton's understanding of establishment was that it provided establishment with a utilitarian basis. Since the ministrations of the Anglican church were acceptable to most English people, it was an appropriate pursuit of the public interest for the government to keep them available. For this reason, the Anglican church could be "disestablished," that is, deprived of its preferred status, in Ireland and later in Wales, where most people preferred other churches. It could be left in place in England, where most people maintained some kind of tie with it.

In a way, the status of the established church in England came to be like that of the public school in the United States. Its services were available to anyone who wanted them, and most people who wanted church services were content with them. At the same time, people whose needs were not met by the public services were free to use their own resources to set up whatever alternatives they chose. Understood in this way, the establishment was accepted by most people. It was venerable, it was useful, and with the reforms of the early and mid-nineteenth century, it cost the taxpayers nothing.

Today, the establishment is probably more of a burden to church members who take their religion seriously than it is to nominal adher-

ents or outsiders. Aside from participation in public ceremonies, the main consequences of establishment for the church are that its bishops and other top officials are appointed by the government, its legislation is subject to veto by either house of Parliament, and it cannot control access to its ministrations. Also, in the deployment of personnel and resources, there is a tendency to try to cover the whole country instead of concentrating on places where there are active and growing congregations. People who think of the church as a cohesive body of active and committed believers are apt to dislike these manifestations of establishment. On the other hand, people whose primary interest in the church is political or historical generally appreciate establishment in just about the form it has taken.

What seems to me most striking about the historical evolution that has left England in the peculiar position of being a pluralist society with an established church is the haphazard quality of the whole development. The medieval ideal was one of a public religious commitment institutionally and liturgically embodied in a single church. In the three and one-half centuries since the Reformation, there has never been an officially sanctioned departure from that ideal. Rather, religious pluralism has been recognized through specific concessions made at specific times to specific groups because it seemed right to make them. A broadening of the boundaries of the national church to include a wider range of beliefs and practices accompanied these concessions. The old saying that the Anglican church never interferes with a person's politics or his religion is not altogether fair, but it does reflect a certain pluralism within the church as well as in the relation between the church and the wider society.

Note that English pluralism as developed in this way sharply contrasts with the forms of pluralism that have developed in other societies. It is not like the pluralism of the old Ottoman Empire, where religious differences were accompanied by profound cultural differences. English people were always able to differ in matters of religion without differing in much else. Nor is English pluralism like that of Germany, and to some extent France, where compromises came out of a standoff between rival versions of what society should be and who should control it. From 1662 on, Anglicans—at least nominal Anglicans—were never seriously challenged for control of English society. Finally, English pluralism is not like American pluralism. The role of English Protestant dissenters in the settlement of many of our original states left us with a national religious consensus without any common institutional or liturgical component. The expansion of that consensus from generic Protestantism to generic

Christianity to Judeo-Christianity to general niceness has not altered the basic way we think of it. The English national consensus has tended to broaden in the same way as ours, but the national church has always been there, incorporating new theological and liturgical movements, broadening its comprehensiveness as the consensus broadened, and continuing to provide an institutional and liturgical framework acceptable to a majority of the people.

It is not hard to see how our American understanding of pluralism developed into a general privatization of religion. Since the national religious consensus had no institutional or liturgical component, everything about religion that involved either institutions or liturgy was privatized from the start—or as soon as the few states that supported churches followed the federal example and stopped. As time went on, and the consensus was broadened to take in more people, the religious content tended to be squeezed out of it, and so to be left to the privatized institutions and liturgies. By the middle of this century, this development had progressed to the point that so wise a judge as Wiley Rutledge could characterize “the realm of religious training and belief” as “the kingdom of the individual man and his God”—as if there were a different God for each individual man.²⁴

Other forms of pluralism have collapsed into privatization just as ours has. Where the public manifestations of religion have been tied to particular forms of culture, they have not survived world-wide cultural homogenization. Where they have been tied to particular positions on political or social issues, they have not survived the replacement of those issues with new ones. The upshot has been that everywhere but England, religious pluralism and the privatization of religion have gone hand in hand.

It follows that our current understanding of pluralism will be profoundly affected by the growing refusal of a number of people to keep their religion private. This refusal is often deplored by believers and unbelievers alike, but I believe it is inevitable. For many of us, our conceptions of social responsibility come from the principles of our religion. Consequently, when we become conscious of social injustice, we naturally look to religious principles to tell us how to put it right. A growing awareness of social injustices, therefore, means a growing awareness that our religious principles have public consequences.

Furthermore, we live in a period when the transcendent value of human beings is challenged in an increasing variety of ways. Whether

²⁴ *Everson v. Board of Educ.*, 330 U.S. 1, 57-58 (1946).

people are considered spending units in the consumer society, human resources in the business world, cogs in some totalitarian machine, or blobs of tissue in the world of science, their transcendent value gets lost and needs to be affirmed. For many people, myself included, to affirm the transcendent value of a human being is to affirm a religious principle. A society that gives public recognition to human transcendence cannot be one in which religion is merely a private matter.

To my mind, then, it is becoming increasingly apparent that the privatization of religion is not a permanent solution to the problem raised by religious pluralism in Western society. It stands to reason, therefore, that we should learn something from the one Western nation that has tried to solve the problem in a different way. By maintaining an official status for a particular religious institution and a particular set of liturgical forms, England continues to affirm transcendent values in public life and transcendent standards of social justice. Granted, the affirmation is hardly more than symbolic, and the values and standards affirmed have little substantive content. Even so, I think that the effect of the affirmation is far from negligible.

Perhaps the most important effect is a continuing awareness that religious commitments and religious values are to be taken seriously. That awareness is a dominant theme of the whole history that I have recounted. It is a history of specific measures to meet specific grievances of specific people as those grievances have come to light. Every abstract principle of church-state relations, whether philosophical or theological, has given way before the willingness of English people to accommodate their neighbors' concrete religious needs. English people, however they feel about their own religion, have tended to take other people's religion seriously. I think much of the reason for this is they have always experienced religion as an essential element in public life.

None of these observations really answers the question of how the recognition—even the symbolic recognition—of one religion can be consistent with full participation in public life for people who hold other religions or none at all. I am not sure I have a good answer to that question. On the other hand, I have not yet heard a good answer to the alternative question of how governmental pursuit of an antiseptic religious neutrality can be consistent with full participation in public life for people who take any religion seriously.

Perhaps neither question can be answered in the abstract. Making room for other people is not an abstract matter at all. It is a matter of looking at real people just as we find them, with all their interests and concerns intact. For many of us, this making room is a

religious as well as moral duty. It is a recognition of the transcendent destiny of the human person, and the profound mystery of the spiritual journey on which each person is embarked. I do not think excluding religion from public life or building a wall of separation between church and state will enhance these recognitions.

Rather, I think any state needs to be in effective dialogue with whatever religious tradition or traditions it finds among its people. I think that the English, through the unique historical experience I have outlined, may have approached the kind of dialogue I have in mind. Other states and other religious traditions will have to find different ways. Speaking as a Roman Catholic, I find the way illuminated somewhat by the Second Vatican Council's document *Gaudium et Spes*, which tries to position the church in the world by pointing to the universality of human concerns:

The joys, the hopes, the griefs and the anxieties of the people of this age . . . , these too are the joys, the hopes, the griefs and the anxieties of the followers of Christ. Indeed, nothing genuinely human fails to find an echo in their hearts.²⁵

My own hope is that because of this basic human solidarity underlying all the diversity of belief and practice in the world, there can always be public recognition of religious beliefs and values in any pluralist society. In another place, the same Vatican document says that the church "is at once a sign and a safeguard of the transcendence of the human person."²⁶ I submit that any religious body in the Jewish or Christian tradition can be such a sign and safeguard, and that it is better to have such signs and safeguards in a pluralist society than to lack them.

²⁵ *Gaudium et Spes*, ¶ 1.

²⁶ *Id.* at ¶ 76.