

“A Moral Surprise: Common Foundation of Christianity and Modern Politics”

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This talk explores the fundamental meaning of the freedom of conscience and demonstrates that it is actually a foundation both of Christianity and political liberty.

ABSTRACT

This presentation operationalizes without mentioning the “passions, opinions, and interests” that James Madison invoked in Federalist Paper number ten as the motive forces operating in human life, with the understanding that opinion is the mediating term which is required to actuate either passions or interests. That argument means that opinion bears forcefully on the sensory world through reason, while recognizing that it operates as well from the supersensory or transcendent realm. That reality means that humans have the capacity to produce motion or movement in the sensory world without first being moved in a sensory manner. To that limited extent the human is akin to Aristotle’s unmoved mover – the human acts a little bit like God in the world. But the most important question is whether that action is constrained or arbitrary. If it is strictly guided by reason, then it is not transcendent. Historically, accordingly, humans have resorted to a separate faculty, called conscience (a moral cause), to account for their ability to move independently of material cause. We inquire, therefore, whether conscience is a sure guide. We do this particularly in light of the pride of place conscience holds in governing human conduct, since the freedom of conscience is the over-riding foundation of political liberty. For if conscience proved to be a mere chimera, then it would follow that humans can and may act without accountability in the sensory world (not counting post facto consequences as measures of accountability).

To occupy this authoritative ground conscience would have to govern man above all other potential causes of human conduct. That this is the claim for conscience is underscored by the role it plays in defining political freedom. For the enforcement of freedom of conscience means explicitly interfering with the operation of all other sources of rule (that is, human sources of rule) in determining human conduct. That position does not inhere in individualism, equality, or consent, since each of those can yield a “free-for-all” with respect to competing human claims of authority. To express it differently, there exists no moral or ethical foundation for yielding to collective authority, apart from the subordination of collective authority – and hence any human authority – to the transcendent authority that informs conscience. While political freedom, for example, may have good consequences (such as in producing a more equitable distribution of resources), it can do so only if it stands upon the foundation of freedom of conscience. That is, political

freedom requires a freedom of conscience that is not itself the product of political freedom. It is rather a construct of divine revelation.

Introduction

In October 1785 James Madison launched a local political campaign that had world-historical significance. He initiated a public petition in protest of a draft religious assessment statute pending in the Virginia General Assembly. In raising such a protest Madison established no precedent. He was in fact following in paths well worn by American colonists in their petitions to King and Parliament in the pre-revolutionary years. Nor were the democratic implications of the procedure path-breaking, in the aftermath of the Declaration of Independence and state constitutional conventions. What was of world-historical significance was making clear and explicit the radical ground of modern politics, going beyond the literary and philosophical tropes of earlier versions of the same principle.

Madison's protest is known under the title, "Memorial and Remonstrance."¹ In it he declared roundly that:

"The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is in its nature an unalienable right. It is unalienable; because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men: It is unalienable also, because what is here a right towards men, is a duty towards the Creator It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe." (7)

In its generalities, this argument resembles very strongly the language in Thomas Jefferson's draft "statute of religious liberty" for Virginia, which had been pending since 1784 and which Madison would ultimately shepherd into law after killing the proposed religious assessment bill. But Jefferson's focus on the priority of reason and nature to the claims of religion² bore an altogether different weight than Madison's focus upon duties precedent to the commands of civil society. By insisting upon "conviction and conscience" as independent ground for determining conduct, Madison went beyond safeguarding religious opinion and erected a compulsory force acting in the sensible world from a transcendent vantage.

Madison's language may have departed from the standard Jefferson embraced, but it was neither new nor unrelated to Jefferson's position. For well before his "Memorial and

¹ James Madison. "To the Honorable the General Assembly of the Commonwealth of Virginia: A Memorial and remonstrance." In, *The Mind of the Founder: Sources of the Political Thought of James Madison*. Marvin Meyers, Ed. Hanover: Brandeis University (University Press of New England, 1981 (Revised).

² Jefferson's draft opened, "Whereas Almighty God hath created the mind free, that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy author of our religion," but builds to the climax that "truth is great and will prevail if left to herself, and that she is the proper and sufficient antagonist to error,... errors ceasing to be dangerous when it is permitted freely to contradict them." Jefferson, in sum, argues that man must stand on his own authority!

Remonstrance” Madison had already staked out the ground he would occupy in a concern that he shared with Jefferson. He signaled this by quoting himself in the “Memorial;”

Above all are they to be considered as retaining an ‘equal title to the free exercise of Religion according to the dictates of conscience.’ [Virginia Declaration of Rights, Art. 16] Whilst we assert for ourselves a freedom to embrace, to profess and to observe the Religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man: *To God, therefore, not to men, must an account of it be rendered.* (Emphasis added. 8-9)

The quotation from Article 16 of the Virginia Declaration of Rights reflects Madison’s contribution to George Mason’s draft of that document. In it, Madison was acting in agreement with Jefferson (who was at the Continental Congress at the time) in fending off Mason’s draft language, which had spoken of “religious toleration.” Eva Brann, in her essay on the “Memorial and Remonstrance,”³ described the process thus:

In his work on Article XVI of the Declaration of Rights, the young delegate to the Revolutionary Convention of May 1776 had offered but one draft article, on religion. Patrick Henry, who had himself sponsored it, had quickly disclaimed it when challenged on the floor to explain whether he actually intended to disestablish the Church. Madison had, of course, intended just such disestablishment: *That Religion or the duty we owe to our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of violence or compulsion [a stylistic emendation of Mason’s “force or violence], all men are equally entitled to the full and free exercise of it according to the dictates of Conscience.* No man or class of men, the article continues, should receive special privileges or be subjected to special penalties for religious reasons, a prefiguration of the two prongs of the First Amendment, the establishment and free exercise clauses. Madison, having been forced to withdraw his own draft, scrutinized Mason’s version, which promised “the fullest *toleration* in the Exercise of religion.” Perhaps he alone in that assembly took one word of it seriously enough to forestall a danger. That word was “toleration,” which implies not a right to religious liberty but a privilege granted. That was absolutely insufferable for Madison, for toleration accorded with, and so confirmed, ecclesiastical establishment (as in modern times it can accompany an anti-clerical policy).

It is of particular interest not only that Madison and Jefferson found “toleration” in principle objectionable, but that Madison incorporated Jefferson’s “reason and conviction” before closing with the “dictates of Conscience,” which was his own contribution. As Brann suggests, this aimed to end religious establishment. But it did more. It identified the faculties of reason and of conscience as equally involved, knowing that the faculty of conscience – if there be such a faculty – was a faculty beyond reason. This latter point is the point that Madison underscores while operating on his own understanding in the “Memorial and Remonstrance.”

Part I

³ “Madison’s ‘Memorial and Remonstrance’: A Jewel of Republican Rhetoric”: <http://www.theimaginativeconservative.org/2013/06/madisons-memorial-remonstrance-republican-rhetoric.html>

Now, this is the point that most interests us: namely, is there a distinguishable human faculty called conscience, and if so, of what sort is it? How is it distinguished from reason? Is it resolvable into “subjective preference” as reason can be? Is it an active human power, as reason is; or is it a passive human power? The answers to these questions mean everything, for if the obligations of conscience are “prior to the obligations of civil society,” then they operate with a compulsory force that limits the efforts of human lawmaking.

Let us underscore the problem we are considering. Are humans subject to an authority over which they exercise no will or choice, and is that authority of such nature that it can operate upon the sensible world in which human agency acts with resort to voluntary initiatives? If the answer to these questions is yes – if conscience can guide human conduct no less surely and still more immanently than can human choice (whether from appetite or reason) – then it must follow that humans are as much moved as movers in the moral universe. Because that is so, it must also follow that they act upon the sensible universe without first being acted upon by the sensible universe. That is, within the localized realm of the sensible universe humans are unmoved movers. The unmoved mover of course is Aristotle’s account of the source of all motion. It has been taken to parallel the force of God in creation *ex nihilo*. In short, the idea of conscience instantiates the power of God in the sensible world, localized or domesticated through man. And nothing is more important than to inquire humans are thus moved.

An initial approach to this question would be informed by the biblical account in John 6:45 of *theodidacti*, which holds that

⁴⁵It is written in the prophets, And they shall be all taught of God. Every man therefore that hath heard, and hath learned of the Father, cometh unto me. 45 *Estin gegrammenon en tois profetais: `Kai esontai pantes didaktoi Theou.` Pas ho akousas para tou Patros kai mathoon erchetai pros eme.*

Where the prophet referenced is Isaiah, who in 54:13 foresees that

...all thy children shall be taught of the LORD; and great shall be the peace of thy children.

Thus, the first approach in rendering conscience is to identify the source that Madison identified, God, as the agent acting through this human faculty. It is important to observe, however, that in doing this a further question arises – namely, in what way God’s teaching or commands manifest in human beings. For if it is irresistible, then the reality of conscience would not be politically relevant, inasmuch as there would be no human acts, including the actions of civil society, out of conformity, in much the same way that animal nature in general does not resist to “instinct.” That this is true is further suggested by the history of God’s teaching. For under the old or original covenant, God addressed men in general but only through specified human agents. That is, revelation was to particular persons, who bore the burden of representing it to the rest of mankind (or Israel). So pronounced was this effect that the people of Israel themselves recognized that they could not interact directly with God and needed Moses as an intercessor. This reality is underscored by the need for prophecy in general. God’s original plan of communication with man did not seem to rely upon this distinctive human faculty to discern his commands. Conscience as the means of communication from God to humans is a successor faculty to the age prophecy.

This makes our inquiry even more complicated, for it implies that we cannot derive conscience from an inquiry into human nature – at least not without entertaining the idea of plural natures. On the first premise, that conscience is not natural, we must read Madison’s claim that the “duty is precedent both in order of time and degree of obligation, to the claims of Civil Society” (“who told you that you were naked?”) as reflecting divine intervention in the created order with the specific purpose of disposing man to suffer divine command (hence its passive character). On the second premise human beings “grow” a second nature that radically transforms their status in the sensible order. It is important to observe that conscience is not seen as reshaping the sensible order; it is only seen as directing *some* of man’s conduct within that order, while leaving the balance of that conduct to be sorted on “natural” grounds. The difference in the premises is only the extent to which we find clarity in understanding conscience from psychology or from religious faith. I forswear inquiry into whether conscience is a natural phenomenon (for reasons I make clear later) and therefore focus hereafter exclusively on the first premise.

Abraham Lincoln captured the way in which God conditions human existence in the sensible order in an 1859 Letter to Henry Pierce⁴:

This is a world of compensations; and he who would be no slave, must consent to have no slave. Those who deny freedom to others, deserve it not for themselves; and, under a just God, can not long retain it.

God’s justice, he suggests, does not displace human responsibility but builds in reciprocating principles that prevent the ultimate overturning of divine commandments. This is interesting because it argues implicitly that humans make judgments and undertake actions that interact with God’s teaching in such a way as sometimes to contravene but never to overturn that teaching. That implies further that human effort to achieve or realize divine command may equally be the result of human initiative or of divine initiative. Since these two factors operate independently, their coordination – or lack thereof – is critical to determining how we are to understand the role of conscience. For, since conscience is absolute, final in its determinations, whereas reason is fungible (subject to change or exchange) the potential for variance in their determinations is very large. Thus, at the very heart of political foundation lies the question of whether the fundamental principle guiding that foundation is or is not a reflection of the direction of conscience rather than reason. When Lincoln continued in the letter to Pierce to identify the principle of equality as central to the founding, he meant to elaborate the idea that slavery contravened God’s justice:

All honor to Jefferson---to the man who, in the concrete pressure of a struggle for national independence by a single people, had the coolness, forecast, and capacity to introduce into a merely revolutionary document, an abstract truth, applicable to all men and all times, and so to embalm it there, that to-day, and in all coming days, it shall be a rebuke and a stumbling-block to the very harbingers of re-appearing tyranny and oppression.

⁴ Collected Works of Abraham Lincoln. Volume 3. Lincoln, Abraham, 1809-1865. Basler, 9. 376 Annotation [1] ALS, RPB. The form letter of invitation dated March 19 bears the signatures of Henry L. Pierce, Boston manufacturer, later state representative (1860-1862) and mayor of Boston (1873, 1878), and a committee of five Republicans in charge of the festival (DLC-RTL). Lincoln’s reply was given wide circulation by the Republican press. <http://quod.lib.umich.edu/l/lincoln/lincoln3/1:98?rgn=div1;singlegenre=University+of+Michigan+Digital+Library+Production+Services;sort=occur;subview=detail;type=boolean;view=fulltext;q1=all+honor> .

The abstract truth of equality – and its derivative precept, consent – derives from the “laws of nature and of nature’s God.” Insofar as God speaks through nature, God necessarily speaks abstractly. Thus, Lincoln’s observation may be reduced to the idea that Jefferson had the forecast to introduce a rational principle into the Declaration, as opposed to circumstantial preferences. But the capacity of humans to live up that rational principle is contingent, first, upon their rational faculties and, second, upon the extent of their submission to reason. Since reason is not a passive faculty, in other words, it remains an open question whether its authority will be conceded. To Socrates when abstract principle is apodeictic it is ethically as well as intellectually compulsory. That in turn reduces questions of justice to questions of knowledge or ignorance, and there is no room left for an independent moral agency such as conscience.

Lincoln, however, seemed aware of this difficulty. For, he not only referred to the equality proposition as “abstract truth” and “axiom,” but he also referred to it at least twice as a “standard maxim for a free society.”⁵ And what he seemed to mean by maxim was conveyed at least eight times when he described the assault by Stephen A. Douglas and the Democrats on the equality proposition as blowing or blotting “out the moral lights among us.”⁶ Again, he referred to the equality proposition as a “stumbling block” to those who would seek to evade it, just as he had done in reference to the “abstract truth.” Accordingly, Lincoln seemed to believe that there was a force descending from somewhere that would sustain the “truth” without having to depend upon independent efforts of reason to attain to it. Like Madison, he seemed to suggest that God stood behind it. Nevertheless, he never specifically identified a faculty through or by which the purposes of God were realized in individuals. That in turn leaves the citizen members of the polity to undertake God’s work through efforts to shape opinion conformably to God’s purposes.

The problem we confront, however, is that to leave the work of morality to politics or society (which may at length be all that can be had) inadequately addresses the question of whether morality is only a contingent construct, realizable circumstantially but not pervading human existence. That question James Madison seems to have evaded by the invocation of a distinctive human faculty, conscience, through which the authority of morality sustains through every circumstance and independently of human variations of rational capacity or ethical inclinations. Indeed, that seems precisely to be captured in Madison’s aphorism that, “if every Athenian citizen had been a Socrates, the Athenian assembly would still have been a mob,”⁷ a fact that obtains despite the observations that “in a nation of philosophers...a reverence for the laws would be sufficiently inculcated by the voice of an enlightened reason.”⁸ This contrast leads to the conclusion that Madison’s appeal to the authority of the “reason of the public” was not an appeal to reason simply. Enter conscience: “In a free government, the security for civil rights must be the same as that for religious rights.”⁹ The security for religious rights, however, is the prior obligation to God that prevails over obligations to civil society!

⁵ Seventh and Last Debate with Stephen A. Douglas at Alton, Illinois. October 15, 1858; Speech at Springfield, Illinois. June 26, 1857.

⁶ [First Debate with Stephen A. Douglas at Ottawa, Illinois](#) August 21, 1858; [Speech at Bloomington, Illinois](#) September 4, 1858; [Fifth Debate with Stephen A. Douglas, at Galesburg, Illinois](#) October 7, 1858; [Speech at Columbus, Ohio](#) September 16, 1859; [Eulogy on Henry Clay](#) July 6, 1862

⁷ Federalist #55.

⁸ Federalist #49.

⁹ Federalist #51.

The significance of this argument becomes most obvious when we see how far it advances the case for the equality proposition beyond the formulations of the best exegete of that proposition, Harry V. Jaffa,¹⁰ whose elaboration deserves a full quotation:

If no one is by nature a ruler, then all human beings are a priori, or by nature, nonrulers of each other. Although legitimate political authority does not arise immediately from nature, it does arise according to nature, when it arises from consent... Such consent, however, *is not an act of the will alone*. It does not mean acquiescence in any political relationship whatever. It must be rational and must reflect the mutual acknowledgment of the rights of each by all and of all by each.... There is therefore no reason or obligation, other than the effect of mere force, why anyone should obey a law or command by another unless it rests in some intelligible way upon his own *informed consent*. [Emphases added. *New Birth*, 81]

[The secession states] might consistently, even if erroneously, have denied both equality *and* consent; but they could not consistently demand the benefit of being ruled only by their own consent while denying that other human beings shared in that human nature that is the original and necessary justification for the requirement of consent. It is therefore of the highest importance that we understand the term ‘compact’ as...the essence of the philosophical and constitutional statesmanship of the Revolution. [*New Birth*, 38]

In reaching for “consent” as principle rather than as precept – a practice to actualize the potential of the equality proposition ↓ Jaffa confines the political discussion to the immediate agency of the individuals involved in forming the political community. Hence, “compact” is “the essence of the philosophical and constitutional statesmanship of the Revolution.” We have already seen, however, that the appeal to freedom of conscience is founded in conscience’s “preceden[ce] both *in order of time and degree of obligation*, to the claims of Civil Society.” In other words, as a political principle – and particularly as an aspiration, which Jaffa has the merit of having made plain beyond cavil – the equality proposition is insufficient. That explains my prior labors to establish clearly that the principle is primarily a principle of moral relationship and in such manner as to affirm moral capability.

Part II

At this point we meet the steepest challenge, for all of modern philosophy and politics has occurred within the context of life envisioned beyond morality, beyond good and evil. It would be excessive to rehearse the entire development of those modern principles and practices that have eventuated in the discharge of moral obligation as a credible conception. Happily, we have the work of James Doyle, channeling G. E. M. Anscombe to short-circuit that process and also fortuitously to bring us back to our main topic. Before undertaking that brief discussion, however, I need first to intensify the sense of the need for a resolution to this dilemma. And I can do that best by taking up the contributions of Spinoza and Kant to the modern predicament.

Spinoza set forth the essential problem in the presentation of what by the cognoscenti is taken to be a sophisticated atheism:

¹⁰ Harry V. Jaffa. *A New Birth of Freedom: Abraham Lincoln and the Coming of the Civil War*. Lanham, MD: Rowman & Littlefield Publishers, Inc., 2000.

‘Since without God nothing can exist or be conceived, it is evident that all natural phenomena involve and express the conception of God as far as their essence and perfection extend, so that we have greater and more perfect knowledge of God in proportion to our knowledge of natural phenomena: conversely... the greater our knowledge of natural phenomena, the more perfect is our knowledge of the essence of God (which is the cause of all things)’ (*Tractatus Theologico-Politicus* ch 4, trans R H M Elwes).

We are not concerned with the argument about Spinoza’s skepticism as atheistic or otherwise. We observe rather the immediate consequence of the identification of perfect knowledge of nature with perfect knowledge of the essence of God. For if that is so, there seems little left to make room for a form of knowing other than what arises from knowledge of nature.

What, then, is conscience? Well it most certainly is not what Supreme Court Justices O’Connor, Kennedy, and Souter took it to be in 1992, namely, “the right [i.e., power] to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.”¹¹ [852] For the immunity claimed from compulsion by state is defective to the precise extent that the state consists only of so many persons laying claim to the identical right or power. And this definition does not enable anyone to determine whose self-defining eccentricity should prevail over another’s. In short, the power to define one’s own concept of existence is writ that runs only as far as one’s strength to impose one’s will. What is needed, rather, is recourse to a faculty or principle independent of human will, to sustain claims of right or power such as the Supreme Court sought in this case.

In the development of his ethical argument¹² Spinoza sought to establish a distinctive faculty, one that he terms “intuitive science,” the very purpose of which is to develop from “l’Idée adéquate de l’essence formelle de certains attributs de Dieu à la connaissance adéquate de l’essence des choses.” [I, 203] This *third* kind of understanding represents a separation as well as an advance over the first two. The first understanding or knowing is confined to the sensory realm, and is vague and confused, while the second form is purely conceptual, deriving its matter from the structures and appearances of the sensible order. The first kind of knowing sparks or drives appetites or affections, while the second form abstracts from sensation.¹³ The process envisioned is straightforwardly mechanical and symbolic. However the third form of knowing is different:

Proposition XXV : *Le suprême effort de l’Âme et sa suprême vertu est de connaître les choses par le troisième genre de connaissance.* [II, 211]

Proposition XXVI : *Démonstration : Dans la mesure en effet où nous concevons que l’Âme est apte à connaître les choses par ce genre de connaissance, nous la concevons comme déterminée à les connaître par ce genre de connaissance et, en conséquence, plus l’Âme est apte, plus elle le désire.* [II, 213]

¹¹ PLANNED PARENTHOOD OF SOUTHEASTERN PENNSYLVANIA, ET AL., PETITIONERS 91-744 v. ROBERT P. CASEY, ET AL. 505 U.S. 833; 112 S. Ct. 2791; 120 L. Ed. 2d 674; 1992 U.S. LEXIS 4751; 60 U.S.L.W. 4795; 92 Daily Journal DAR 8982; 6 Fla. L. Weekly Fed. S 663.

¹² Charles Appuhn [Translator and Editor]. *Spinoza Ethique*. Paris: Librairie Garnier Freres. [1934] Two Volumes.

¹³ Proposition IV : Il n’est point d’affection du Corps dont nous ne puissions former quelque concept clair et distinct.

Since the strongest desire of the soul is to be directed or determined by the third form of knowing, it follows that it must be unimpaired by the other forms of knowing. This ability to operate unimpaired at the third level seems to be what Spinoza has in mind when he speaks of the “Liberté de L’Homme” or the “power of understanding.” [Cinquième Partie] That means some “clear and distinct concept” of the soul’s affections (which themselves are ideas of the body’s affections). [Corollaire, II, 177]

Puisqu’il n’y a rien d’où ne suive quelque effet et que nous connaissons clairement et distinctement tout ce qui suit d’une idée qui est adéquate en nous, il suit de là que chacun a le pouvoir de se connaître lui-même et de connaître ses affections, sinon absolument, du moins en partie, clairement et distinctement et de faire en conséquence qu’il ait moins à en pâtir...

Whereas there is nothing from which some effect does not flow and that we know clearly and distinctly everything that flows from an idea that is adequate in us, it follows from this that each person has the power to know himself and to know his affections, if not absolutely, at least partially, clearly and distinctly and to provide in consequence that he should suffer less from them.

Liberty, in other words, is a kind of spiritual impenetrability to the passions insofar as they generate from inadequate ideas and a submission to those same desires, viewed as virtues, when they arise or are engendered by adequate ideas. Self-knowledge means being less susceptible to passion, suffering them less. [Scolie, II, 177-179]

...imaginer une chose comme libre ne peut rien être d’autre qu’imaginer une chose simplement, tandis que nous ignorons les causes par où elle a été déterminée à produire quelque effet ; donc une affection à l’égard d’une chose que nous imaginons simplement, est plus grande, toutes choses égales, qu’à l’égard d’une chose nécessaire, possible ou contingente, et conséquemment elle est la plus grande qui soit. [II, 181]

Imagining a thing as free can be nothing other than imagining a thing simply, while we ignore the causes by which it has been determined to produce some effect; therefore an affection with respect to something that we imagine simply, and greater still, all things being equal, with respect to something necessary, possible, or contingent, is consequently the greatest [affection] there can be.

The most that humans can accomplish so long as they do not have perfect knowledge of their affections is to “conceive a strict conduct of life, in other words some certain principles of conduct impressed upon our memory and ceaselessly applied to the particular circumstances that we frequently meet in life” so as to shape the imagination and keep them “constantly present” to our minds. [II, 189]

Whoever labors, therefore, to control his affections and his appetites by the love of liberty alone, will try that much harder to know the virtues and their causes, and will give himself over to the full flourishing that their true understanding engenders. That is what it means to follow the command of Reason. [II, 193] Moreover, that command of reason is the aforementioned self-knowledge, which insofar as it prevails, is in fact a love of God, which is the fruit of knowledge of oneself and one’s affections. [II,197]

Cet Amour envers Dieu est le bien suprême que nous pouvons appéter suivant le commandement de la Raison, il est commun à tous, et nous désirons que tous s'en épanouissent... la puissance de l'Âme sur les affections consiste... en ce qu'elle sépare les affections de la pensée d'une cause extérieure... dans l'ordre enfin où l'Âme peut ordonner et enchaîner entre elles ses affections... Or la puissance de l'Âme se définit par la connaissance seule... [II, 201-203]

This love of God is the supreme good that we can desire according to the command of Reason, it is common to all, and we desire that everyone should flourish by it... *the power of the soul over the affections consists...in the fact that it separates the affections from the thought of an exterior cause...* in the order finally in which the soul can ordain and enchain its affections within it [thought]... Now the power of the soul is defined by knowledge alone.

Proposition XXV : *Le suprême effort de l'Âme et sa suprême vertu est de connaître les choses par le troisième genre de connaissance.* [II, 211]

The general result of this argument in Spinoza is the conclusion that to the extent we conceive of the soul as fit to operate on the basis of the third kind of understanding, the more we regard it as determined to know "things" in this way and, therefore, the more the soul is fit for it, the more it shall desire it. [II, 213] Virtue consists in asserting control over the passions. So far, so good. As it occurs, however, there appears no end in view of which the control should be asserted, apart from the desire for control itself. One's liberty, in other words, consists in controlling oneself, for the sheer pleasure of doing so. One is moved to do so after discovering (from the second kind of knowing) just how far otherwise one is controlled and moved by the sensible, material world. Spinoza calls it an "intellectual love," but acting without external motive strongly resembles resentment.

But the resentment comes to light as disenchantment with God. For having taken the soul to be an eternal truth, with God, then whatever contradicts that truth would contradict the intellectual love. It would make truth falsehood. [II, 227-229] Thus, we arrive at Spinoza's climax:

La plupart en effet semblent croire qu'ils sont libres dans la mesure où il leur est permis d'obéir à l'appétit sensuel et qu'ils renoncent à leurs droits dans la mesure où ils sont astreints à vivre suivant les prescriptions de la loi divine. La Moralité donc et la Religion, et absolument parlant tout ce qui se rapporte à la Force d'Âme, ils croient que ce sont des fardeaux dont ils espèrent être déchargés après la mort pour recevoir le prix de la servitude, c'est-à-dire de la Moralité et de la Religion... Et si les hommes n'avaient pas cet Espoir et cette Crainte, s'ils croyaient au contraire que les Âmes périssent avec le Corps et que les malheureux, épuisés par le fardeau de la Moralité, n'ont devant eux aucune vie à venir, ils reviendraient à leur complexion et voudraient tout gouverner suivant leur appétit sensuel et obéir à la fortune plutôt qu'à eux-mêmes. [II, 237]

Most folk seem in effect to believe that they are free to the extent to which they are permitted to obey sensual appetite and that they renounce their rights to the extent to which they are constrained to live according to the prescriptions of divine law. Morality therefore and Religion, and absolutely speaking everything that is related to strength of

soul, they believe to be burdens from which they hope to be discharged after death in order to be rewarded for the slavery, which is to say to Morality and religion... And if men did not have this Hope and this Fear, if they believed instead that the Soul perished with the Body and the unfortunate, exhausted by the burden of Morality, do not have before them any life to come, they would recover their nature [return to their original inclination] and want to govern all according to their sensual appetite and to obey fortune rather than themselves.

Morality, religion, and everything related to the strength of the soul are just so many burdens to impede a general surrender to appetite. Conscience, on this read, would be such a burden. Has it, too, been a mere construct of the mind, pretending to a third form of knowing? Does the appearance of a supersensory or transcendental mode of understanding in Spinoza (“separating the affections from the thought of an external cause”) provide anything more than an artifice of human imagination, through which we discover nothing more than that man the artifice is the artificer of himself, separated from nature by myths of generation and destination? If so, it would mean there is no such faculty as conscience, and perhaps not even a third form of knowing, as anything other than flights of fancy from the second, conceptual realm. Yet, there would remain an insoluble problem on this reading: namely, what faculty can account for the abuse of the faculties provided by nature? How does a natural organism become its own artificer – denature itself? What faculty can account for such a turn?

To rehabilitate Spinoza (we may imagine) Immanuel Kant comes to the rescue, challenging the complete skepticism of David Hume (no ought can come from an is, or, in Spinozan terms, there is no amount of understanding any appetite or desire that can convert a passion [a being moved] into a virtue [an unmoved moving]) with a direct response to the question, how does a natural organism become its own artificer.¹⁴ The following selected quotations frame Kant’s contributions to our discussion:

Thus it is evident that the understanding is capable of being instructed by rules, but that the judgment is a peculiar talent, which does not, and cannot require tuition, but only exercise. [95]

...freedom is the *ratio essendi* of the moral law, while the moral law is *ratio cognoscendi* of freedom.... The ideas of God and immortality, however, are not conditions of the moral law, but only conditions of the necessary object of a will determined by this law. . . .
...the enigma of the critical philosophy, viz.: how we deny objective reality to the supersensible use of the categories in speculation and yet admit this reality with respect to the objects of pure practical reason. [384-385]

...the thinking subject is to itself in internal intuition only a phenomenon... [386]

The concept of freedom is the stone of stumbling for all empiricists, but at the same time the key to the loftiest practical principles for critical moralists... [387]

We need not delve into the intricacies of Kant’s distinction between the *noumena* and the *phenomena*. Let it suffice that he makes a rigorous distinction between cognitions of the sensible realm and cognitions of the supersensible realm. In that context freedom is an empirical

¹⁴ Immanuel Kant. *Critiques*. Radford, VA: Wilder Publications, 2008.

expression of the condition of human life in the sensible realm – i.e., it is strongly underdetermined (thus *free* to act without motive). That empirical fact, in turn, calls for conceptual or intellectual accounting – i.e., an explanation for the under-determination of human existence. In short, man must act in the sensible or material realm, but in order to do so he must supplement sensible nature with “practical judgment.” The burden of Kant’s “Critique of Practical Reasoning,” therefore, is to demonstrate exactly how the rational faculty exercises a dedicated “power” to subject itself to rules that can guide human conduct through nature’s interstitial gaps. We must be very clear about this. Kant is maintaining that humans have things to do for which nature does not adequately provide. Where Spinoza found nature overdetermining and conceived that it was only by a species of rebellion that humans could grasp liberty, Kant finds nature too sparing of principles to govern conduct in cases in which equally eligible (or non compulsory) alternatives are available. This sounds like the very problem that conscience as a faculty is designed to resolve.

...between the realm of the natural concept, as the sensible, and the realm of the concept of freedom, as the supersensible, there is a great gulf fixed, so that it is not possible to pass from the former to the latter (by means of the theoretical employment of reason), just as if they were so many separate worlds, the first of which is powerless to exercise influence on the second; still the latter is meant to influence the former – that is to say, the concept of freedom is meant to actualize in the sensible world the end proposed by its laws; and nature must consequently also be capable of being regarded in such a way that in the conformity to law of its form it at least harmonizes with the possibility of the ends to be effectuated in it according to the laws of freedom. There must, therefore, be a ground of the unity of the supersensible that lies at the basis of nature, with what the concept of freedom contains in a practical way... [499]

Moreover,

...since material principles are quite incapable of furnishing the supreme moral law..., the formal practical principle the pure reason (according to which the mere form of a universal legislation must constitute the supreme and immediate determining principle of the will) is the only one possible which is adequate to furnish categorical imperatives, that is, practical laws (which make actions a duty), and in general to serve as the principle of morality, both in criticizing conduct and also in its application to the human will to determine it. [410]

Thus, Kant argues that “...pure reason can...determine the will independently of anything empirical... this fact is inseparably connected with the consciousness of freedom of the will...” Accordingly, this faculty (consciousness of freedom) perceives its existence in an intelligible order “by virtue of certain dynamical laws” which condition its causality in the sensible world. Freedom, in other words, does not displace us from the sensible world, it is only understandable under the status of autonomy within the sensible world – that is, it is a self-generating cause among causes. “Now the law of this autonomy is the moral law, which therefore is the fundamental law of a “supersensible nature.” It acts in the sensible world “without interfering with its laws.” [410-411]

It is important to understand that this complicated account does not oppose practical reason and judgment to pure, theoretical reason. In fact, Kant insists that “Pure reason is practical of

itself alone and gives (to man) a universal law which we call the moral law.” [403] That means that the rules or principles which govern the will (through practical reason) is subject to the condition that “Ends then must first be given, relatively to which only can the notion of perfection (whether internal in ourselves or external in God) be the determining principle of the will.” [409] But what provides the ends? Is it an additional faculty? Or is it only the conceptual power of pure reason, which operates to transcend without detaching from the sensible world?” Kant’s reply is that the existence of will itself is the key; for that natural occurrence occasions “causality accompanied with freedom.” In that capacity the will is not “determinable by physical laws” and therefore not subject to “empirical intuition in proof of its reality, but, nevertheless, completely justifies its objective reality *a priori* in the pure practical law.”

Now the notion of a being that has free will is the notion of a *causa noumenon*... [419]

This means that there is a wisdom (cognizance of rules or principles) that is particular to humans and as such is not holiness or divine wisdom. However, they are “essentially and objectively” the same. As we said before, God’s power in the sensible world is domesticated through the agency of humans.

The expression of a postulate of pure practical reason..., however, postulate[s] the possibility of an object itself (God) and the immortality of the soul) from apodeictic practical laws and therefore only for the purpose of a practical reason. [389]

This is as close as we come to identifying a separate faculty (though Kant leaves it tied to pure reason to derive its power.) He does not call it conscience, but it unfolds “duties and obligations” no less certainly than the conscience identified by James Madison. And as faculty, its existence is its only proof, “for the possibility of these cannot be understood by any means, and just as little should it be arbitrarily invented and assumed.” Applied to our question concerning the very existence of conscience, Kant replies with the voice of the statesman, “It is what it is.”

Further the moral law is given as a fact of pure reason of which we are *a priori* conscious, and which is apodeictically certain... Hence, the objective reality of the moral law cannot be proved by any deduction by any efforts of theoretical reason... [413]

The reply to Spinoza, in other words, consists in denying that man is his own artificer. Rather,

The moral law is in fact a law of the causality of free agents and, therefore, of the possibility of a supersensible system of nature, just as the metaphysical law of events in the world of sense was a law of causality of the sensible system of nature... It thus changes the transcendent use of reason into an immanent use (so that reason is itself, by means of ideas, an efficient cause in the field of experience). [414]

Because reason operates upon the sensible world in a manner not constrained simply to following pre-determined courses of material relations, it partners with the sensible world to shape material relations to human purposes. Those purposes, however, may not be arbitrary. They must be guided by rules no less exigent than those of the sensible world itself. Nature itself, in other words, is for Kant a platform on which alternative realities may be constructed by intruding the efficient and immanent force of ideas.

...a freely acting cause might be a being in the worlds of sense, in so far as it is considered in the other point of view as a noumenon [rather than phenomenon]... [414]

This intrusion in the natural realm is not a re-making of the natural realm so much as it is a re-arranging. For “reason must cognize causality with respect to the actions of the will in the sensible world in a definite manner; otherwise practical reason could not really produce any action...” Its entire significance derives from the fact that “through the moral law...the idea of the idea of the law of causality (of the will) has self causality.” [415] In short, the empirical observation of the operation of the will is itself the demonstration of the noumenal power of the will, in relation to which its objects are discernible as “those of good and evil. For by the former is meant an object necessarily desired according to a principle of reason; by the latter one necessarily shunned, also according to a principle of reason.” [421] Thus, Thomas Hobbes aversions and attractions return, but now rather as the results of ideas rather than appetites or passions.

We may summarize, therefore, by saying that Kant finds the operation of compulsory (categorical) principles to guide human conduct in a human faculty that is, in fact, not an additional faculty of soul but an expanded capacity of soul. That is to say, the soul is at once cognizant of sensible and supersensible realities, the latter of which exist as possibilities realizable only through the force of human ideas. And this is what Kant defines as morality, the realm governed categorically by human ideas.

Does it not say too much, however, to argue for an absolute and precedent authority of human ideas (if this is what conscience amounts to) in relation to the obligations of human society? Because conscience speaks to the individual’s obligations and not those of the society at large, the fact that a society is a product of human ideas will not obviate the force of Madison’s argument, which requires an independent and absolute compulsion to morality that is not answerable to any further (and especially social direction).

While Kant’s analysis is helpful in directing our inquiry to the manner in which transcendent guidance must shape human conduct, it is not helpful in establishing the force of morality non-contingently. The reason for that seems to be that he does not absolutely defend morality against the force of the skeptical argument (which I summarize as the denial that there are any human faculties apart from the sensory and calculative). That is the argument, it turns out, which puts most in doubt the validity of Madison’s argument. And we must note that the problem of whether morality is merely chimerical or factitious (and therefore conscience with it), if we follow Spinoza, is not merely that good and evil are rendered altogether relative to mere preferences (utilities), but that still more interestingly, it removes compulsion in any form other than material determinism and therefore anything relative to which a case can be made for freedom, political or otherwise.

Part III

What brings this point home to us is the argument that Doyle makes concerning divine commandments, deriving from Anscombe’s work. To present a general portrait of that

argument, we may take Doyle's correction of a commentator on Anscombe's work as a launch point. He quotes Bobonich as follows:¹⁵

The new outlook that emerged by the end of the eighteenth century centered on the belief that all normal individuals are equally able to live together in a morality of self-governance. All of us, on this view, have an equal ability to see for ourselves what morality calls for and are in principle equally able to move ourselves to act accordingly, regardless of threats or rewards from others. These two points have come to be widely accepted – so widely that most moral philosophy now starts by assuming them. In daily life they give us the working assumption that the people we live with are capable of understanding and acknowledging in practice the reasons for the moral constraints we all mutually expect ourselves and others to respect. (1--2)¹⁶

Doyle finds this argument completely in error. The reason for this is that it constitutes a kind of back-filling, in denial that the reality of morality itself had been called into question by the end of the eighteenth century. The combination of “equal ability” in insight and equal ability to act in accord with insight amounts to a willful denial of the suspicion that no human has any such insight or ability to act in a “morality of self-governance.” Since these two conclusions depend upon the premise of the availability if not the compulsion of rules or principles by which humans can shape their conduct in the sensible world, it begs the question of whether such rules or principles exist at all. The reason this is a problem is that the emergence of “morality” as a recourse was a substitute for the prior argument in defense of eudaemonist or excellence ethics elaborated primarily by the classical Greeks. Morality was a rejection of eudaimonism and its attendant recognition of the variability of individual potentiality in regard to virtue. That is, eudaimonism results in recognition of inequality as the natural condition of human life.

It looks instead rather like, for [*philosophers*], a conceptual truth, which indicates, not that the Greeks had a radically different take on how things stand with respect to transhistorically stable and given categories of virtue, philosophy and (*per impossibile*) morality, but that deep *conceptual* shifts have taken place in the interim, for complicated historical reasons which, it turns out, have a lot to do with the rise and fall of Christianity as a cultural force. [12]

The observation that Christianity altered the terms of discourse concerning the prospects of human conduct within the sensible world calls for an explanation.

Why do we *have* our concept of morality, with its notion of obligations that seem to make no reference to our interests? And the answer is: Christianity; or, perhaps, its demise. As Anscombe observes, Christianity derived its ethical conceptions from the Torah, and so conceived ethics in terms of divine commands... On This *law conception of ethics* as Anscombe calls it, what is required for conformity to the virtues...is required by divine law. [12]

The introduction of divine law as a modality to introduce transcendent or “transhistorical” guidance for man provides the mechanism by which we may understand the power of morality – namely, “what makes divine law *law* is precisely what distinguishes it from any natural

¹⁵ James Doyle. “‘Modern Moral Philosophy’ and Modern Moral Philosophy.” Unpublished paper. P. 10.

¹⁶ Bobonich, C. 2002. *Plato's Utopia Recast: His Later Ethics and Politics*. Oxford. As cited in Doyle].

mechanism...and that is *legitimate authority*, or the *right to be obeyed*.” [Doyle, Stoic Conception,¹⁷ in Stoic Ethics, 7] We may substitute for “the right to be obeyed” “its compulsory operation” to complete the argument Doyle imports from Anscombe. He quotes her as follows:¹⁸

...what is needed for conformity with the virtues failure in which is the mark of being bad *qua* man... is required by divine law. Naturally It is not possible to have such a conception unless you believe in God as a lawgiver; like Jews, Stoics, and Christians.
[17]

At this point what we have is a reference for moral reasoning rather than an account of its operation. That is to say, humans can point to the guideposts of divine commandment to discern the “right choices” to make in circumstances in which choice is necessary. The operation is not compulsory and therefore still leaves in man’s hands the necessity to conform to the guideposts. What makes them obligatory, on this account, is not their power or force but their rightness.

But more than this is required for the application of the concepts of law and command, where these are held to involve a distinctive kind of necessity of the sort laid out in the earlier document. Some kind of established system of signs is necessary for the processes by which the authority of a lawgiver, his right to be obeyed, is claimed and acknowledged; that is, there must be something like divine *revelation*, where this is to be distinguished from what might be inferred about God’s will on the basis of observation of natural phenomena. Such revelation is necessary if divine law is to count as *promulgated*, as opposed to more or less speculatively discerned or surmised. Such promulgation is only possible if the law’s content, and its status as law, i.e., a precept thereby promulgated *with divine authority*, are sufficiently clear that anyone who apprehends it may reasonably be deemed culpable, *in the sense of disobedient*, for not abiding by it.
[Stoic Ethics, 14]

These law conceptions, however, are very different from “moral notions,” deriving from “religious ethics.” While Anscombe believed that there may be space for a secular version of such ethics, Doyle doubts this (hence his review of “Stoic Ethics,” the best such source). But the moral notions “were *unthought of* in religious ethics and are now thought of as essentially secular. But there is no more conceptual room for secular moral notions than for religious ones. For the moral notions are not concepts at all. They are *utterly chimerical*.” [18]

What Anscombe taught, accordingly, is that attempts to impart the status of law or divine commandment to ethical principles of virtue resulted from analogizing divine revelation to the discoveries of reason. Now it is evident that the authority of God can not be borrowed by humans to fortify the conclusions of reason. Morality is therefore “chimerical” because it is an untenable imposition upon the sensible world (in which humans operate) of transcendent powers.

This argument has great power as a demonstration of the pathways of human construction – Spinoza’s artifices. The move it makes of attributing to the Torah in particular and the experience of revelation among the people of Israel in general the emergence of divine commandment as a correlative control over human conduct in the sensible world suffers from

¹⁷ James Doyle, “Did the Stoics teach an ethic of divine command?”

¹⁸ Anscombe, G. E. M. 1958. Modern Moral Philosophy. *Philosophy* 53, 1---19. Reprinted In Anscombe 1991, 26--42, And in Anscombe 2005, 169---194.

over-generalization. For, as we have noted, God conveyed his commandments in that context through the medium of appointed spokespersons. God commanded humankind per se only indirectly. The fact that those commands were systematically disobeyed may readily be traceable to their status as the communications received from fallible human beings, however much they originated directly from God. They did not operate with compulsory force. To that extent, divine commandment did not originally move humans directly whether through conscience or any other faculty.

This all changed with the advent of Jesus Christ, as represented in the New Testament. “Conscience” occurs thirty times in the NT and not once in the OT. And in John 8:9 the word is interpolated (as an interpretation of the narrative), not being present in the Greek. But the first substantive claim of the obligation to follow divine commandment does not invoke the term conscience. In Acts 5:29 the apostle writes:

²⁹ Then Peter and the other apostles answered and said, We ought to obey God rather than men.

²⁹ Apokritheis de Petros kai hoi apostoloi eipan, "Peitharchein dei Theoo mallon ee anthroopois!"

The emphasis is on the collective voice of the apostles, declaring their moral obligation to put God first in the very terms employed by James Madison in the “Memorial and Remonstrance.” Moreover, the apostles, having been miraculously set free from imprisonment (by civil authority), were responding to a direct challenge, “Did not we straitly command you that ye should not teach in this name [Jesus]?” The civil command was opposed to the divine commandment.

Such usage also prevails in the founding documents of states other than Virginia. The New Hampshire of 1784 reads:

Every individual has a natural and unalienable right to worship God according to the dictates of his own **conscience**, and reason, morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection; and the knowledge of these is most likely to be propagated through society by the institutions of the public worship of the Deity.

And, the constitution of Vermont of 1793:

That all men have a natural and unalienable right, to worship Almighty God, according to the dictates of their own **consciences** and understandings as in their opinion shall be regulated by the word of God: and that no man ought to or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his **conscience**, nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship; and that no authority can or ought to be vested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control the rights of **conscience**, in the free exercise of religious worship. Nevertheless, every sect or denomination of Christians ought to observe the Sabbath or Lord’s Day, and keep up

some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

This emergence of the term “conscience” follows the elaborations of the authors of the New Testament, who systematically refer to the term as an additional constraint upon human conduct beyond fear of God’s wrath and human justice.¹⁹ In general the apostles present the conscience as a faculty of evil or good bearing but purged by the operation of the power of Christ. An

¹⁹ Therefore one must be subject, not only to avoid God’s wrath but also for the sake of **conscience**. Romans 13:1-5 (RSV)

⁵ Wherefore ye must needs be subject, not only for wrath, but also for conscience sake.

⁵ Dio anangkee hupotassesthai, ou monon dia teen orgeen alla kai dia teen suneideesin.

Hebrews 10:22 “Let us draw near with a true heart in full assurance of faith, having our hearts sprinkled from an evil **conscience**, and our bodies washed with pure water.

²² proserchoometha meta aleethinees kardias en pleeroforia pisteoos rerantismenoi tas kardias apo suneideeseoos poneeras kai lelousmenoi to sooma hudati katharoo,

1 Timothy 4:1-2: “Now the Spirit speaketh expressly, that in the latter times some shall depart from the faith, giving heed to seducing spirits, and doctrines of devils; 2 Speaking lies in hypocrisy; having their **conscience** seared with a hot iron.”

¹ To de Pneuma reetoos legei hoti en husterois kairois aposteesontai tines tees pisteoos prosechontes pneumasin planois kai didaskaliais daimonioon,

² en hupokrisei pseudologoon, kekausteeriasmeneon teen idian suneideesin,

John 8⁹ And they which heard it, being convicted by their own **conscience**, went out one by one, beginning at the eldest, even unto the last: and Jesus was left alone, and the woman standing in the midst.

⁹ Hoi de akousantes exeerchonto heis-kath-heis arxamenoi apo toon presbuteroon kai kateleifthee monos kai hee gunee en mesoo ousa.

Romans 2¹⁵ Which shew the work of the law written in their hearts, their **conscience** also bearing witness, and their thoughts the mean while accusing or else excusing one another;)

¹⁵ hoitines endeiknuntai to ergon tou nomou grapton en tais kardiais autoon, summarturousees autoon tees suneideeseoos kai metaxu alleeloon toon logismoon kategorountoon ee kai apologoumeneon,

1 Timothy 3⁹ Holding the mystery of the faith in a pure **conscience**.

⁹ echontas to musteerion tees pisteoos en kathara suneideesei.

1 Peter 3²¹ The like figure whereunto even baptism doth also now save us (not the putting away of the filth of the flesh, but the answer of a good **conscience** toward God,) by the resurrection of Jesus Christ:

²² Who is gone into heaven, and is on the right hand of God; angels and authorities and powers being made subject unto him.

²¹ Ho kai humas antitupon nun (*) soozei baptisma, ou sarkos apothesis rupou alla suneideeseoos agathees eperoteema eis Theon, di anastaseoos Ieesou Christou,

²² hos estin en dexia tou Theou poreutheis eis ouranon hupotagenteon autoo angeloon kai exousioon kai dunameoon.

example is found in Hebrews, chapter 9, which expressly contrasts the operations of piety in the sensible world with the gift of conscience.

⁹ Which was a figure for the time then present, in which were offered both gifts and sacrifices, that could not make him that did the service perfect, as pertaining to the conscience;

¹⁰ Which stood only in meats and drinks, and divers washings, and carnal ordinances, imposed on them until the time of reformation.

¹¹ But Christ being come an high priest of good things to come, by a greater and more perfect tabernacle, not made with hands, that is to say, not of this building;

¹² Neither by the blood of goats and calves, but by his own blood he entered in once into the holy place, having obtained eternal redemption for us.

¹³ For if the blood of bulls and of goats, and the ashes of an heifer sprinkling the unclean, sanctifieth to the purifying of the flesh:

¹⁴ How much more shall the blood of Christ, who through the eternal Spirit offered himself without spot to God, purge your conscience from dead works to serve the living God?

⁹ heetis parabolee eis ton kairon ton enesteeekota, kath heen doora te kai thusiai prosferontai mee dunamenai kata suneideesin teleioosai ton latreuonta,

¹⁰ monon epi broomasin kai pomasin kai diaforois baptismois, dikaioomata sarkos mechri kairou diorthoosaios epikeimena.

¹¹ Christos de paragenomenos Archiereus toon genomenoon agathoon dia tees meizonos kai teleioteris skeenees ou cheiropoietou tout estin ou tautes tees ktiseos,

¹² oude di haimatos tragoon kai moschoon dia de tou idiou haimatos eiseelthen efapax eis ta hagia aionian lutoosin heuramenos.

¹³ Ei gar to haima tragoon kai tauroon kai spodos damaleos rantizousa tous kekoinoomenous hagiazei pros teen tees sarkos katharoteeta,

¹⁴ posoo mallon to haima tou Christou, hos dia Pneumatos aiooniu heauton proseengken amoomon too Theoo, kathariei teen suneideesin heemoon (*) apo nekroon ergoon eis to latreuein Theoo zoonti?

The “dead works” are the works of the flesh, to which Christ himself referred when he promised liberation from the sins of the flesh in John 8:

³² And ye shall know the truth, and the truth shall make you free.

³³ They answered him, We be Abraham's seed, and were never in bondage to any man: how sayest thou, Ye shall be made free?

³⁴ Jesus answered them, Verily, verily, I say unto you, Whosoever committeth sin is the servant of sin.

³⁵ And the servant abideth not in the house for ever: but the Son abideth ever.

³⁶If the Son therefore shall make you free, ye shall be free indeed.

Christ promised to make good on this commitment by lodging in each breast a faculty to guide men, namely, the Holy Spirit, the advocate, the comforter. All those terms were used. The central term, advocate, brings us most immediately into contact with the answer we have been seeking. There is an advocate of divine commandment expressly designated to sustain the work of purging the faculty of conscience so that its compulsory function should work invariably for the good. The obligation to obey God is the obligation to follow the conscience informed by God's advocate.

There is a theory embedded here that returns us to considerations of the philosophers. In principle, Christ has answered the question of what it is that enables man to operate in the sensible world with autonomy – namely, the in fact natural faculty of conscience (the capacity to move without being moved by the external world). Heretofore, he said in effect, that faculty acted without aim. After the revelation of Christ, however, it has been enabled to pursue a direct path. We might say, heretofore, it acted at liberty in the world, but now it acts in subjection to divine commandment. But this produces yet another conundrum, to resolve which we must remind ourselves that Spinoza and Kant both identified the capacity for transcendence (the supersensory participation in the sensible world) with freedom. Each sought a mechanism by which they could account for the intersection of the transcendent and the empirical in such a manner as to account for independence from the empirical. Christ suggests that freedom from the sensible world is nothing other than the ability to say no to the appetites or passions. Moreover, he conveys both that freedom and the power to live it out by reshaping the faculty of soul that always lay at the base of the human dilemma, conscience or the autonomous will. Heretofore that faculty followed slavish impulses, but through its subjection to divine commandment the human becomes free to live beyond the sensible world.

This development bears significance in regard to the contrast among the freedom — the eleutheria — that accompanied virtue or excellence ethics, the freedom of self-making found in modern philosophy, and the freedom from sin that Christ introduced. In the first case, the eleutherion, the free man, was the one that consummated the work of being fully human. In that case few were in fact free. In the second case, that of modern philosophy, the freedom is universal and therefore equal for all. But it is a freedom of will or the power to act in the sensible world without being determined by external necessity (which leaves the question of good or evil open to human construction). In the third case, all are equally called to freedom to act for the sake of the good but, importantly, by divine injunction. It is the purged conscience that makes this third freedom possible and, at the same time, obligatory.

Conclusion

We return at last then to our opening inquiry: whence arises the duty to God that is precedent to the duties to civil society. It can only arise from a divine dispensational intervention in the sensible world. Madison's appeal can have no other force independent of that reality. It would make no sense to defend a freedom of an unregulated conscience, for that would be a freedom to do as one lists. Yes, such a freedom would be heedless of obligations to civil society, but it would only be the existence of such a freedom that would require the superintendence of civil society. The built-in contradiction of building civil society on that foundation is evident. By making freedom of conscience the foundation of civil society,

therefore, James Madison and all those of the founding era who followed the same path effectively made the founding principle of Christianity the founding principle of free government. It is they who are bound by conscience to God who most need to be liberated from the intrusions of civil society upon those obligations to God. In those terms, every society founded on the basis of freedom of conscience will be a Christian society. And we must be clear: there is no question of whether one or more of the members of society is a Christian. What makes a society Christian is its foundation on the freedom of conscience, not the number of Christians in the society. A society so founded would be Christian society even if no one in it were a Christian.

We find the practical expression of this truth reflected again in the seminal work of Harry V. Jaffa, who wrote,

That the equality of human souls in the sight of God ought to be translated into a political structure of equal political rights has come to be regarded as the most authentic interpretation of the Gospel itself. [*New Birth*, 151]

and who, moreover, fifty years earlier had already anticipated the response to his own argument that “compact” was the “essence of the philosophical and constitutional statesmanship of the Revolution,” when he wrote:

Lincoln transforms a truth open to each man as man into something he shares in virtue of his partnership in the nation. The truth which, in the Declaration, gave each man, as an individual, the right to judge the extent of his obligations to any community, in the Gettysburg Address also imposes an overriding obligation to maintain the integrity, moral and physical, of that community which is the bearer of the truth. The sacrifices both engendered and required by that truth... transforms that nation dedicated to it from a merely rational and secular one, calculated to ‘secure these rights’ – i.e., the rights of individuals – into something whose value is beyond all calculation. The ‘people’ is no longer conceived in the Gettysburg Address, as it is in the Declaration of Independence, as a contractual union of individuals existing in a present; it is as well a union with ancestors and with posterity; it is organic and sacramental. For the central metaphor of the Gettysburg Address is that of birth and rebirth. And to be born again... connoted the birth of the spirit as distinct from the flesh; it meant the birth resulting from the baptism or conversion of the soul. This new birth is not, as we have said, mere renewal of life but the origin of a higher life. [*Crisis*²⁰, 227-228]

²⁰ Harry V. Jaffa. *Crisis of the House Divided: An Interpretation of the Lincoln-Douglas Debates*. Chicago; University of Chicago Press, 1959, 1962.