

ESSAY

IS THERE STILL A “CATHOLIC QUESTION” IN AMERICA? REFLECTIONS ON JOHN F. KENNEDY’S SPEECH TO THE HOUSTON MINISTERIAL ASSOCIATION*

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[B]ecause I am a Catholic, and no Catholic has ever been elected President, the real issues in this campaign have been obscured—perhaps deliberately, in some quarters less responsible than this. So it is apparently necessary for me to state once again—not what kind of church I believe in, for that should be important only to me—but what kind of America I believe in.

John F. Kennedy, September 12, 1960¹

Fifty years ago, Senator John F. Kennedy, a Democrat from Massachusetts and a lifelong Roman Catholic, accepted an invitation from

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1 Senator John F. Kennedy, Address to the Greater Houston Ministerial Association (Sept. 12, 1960) (transcript available at <http://www.jfklibrary.org/Research/Ready-Reference/JFK-Speeches/Address-of-Senator-John-F-Kennedy-to-the-Greater-Houston-Ministerial-Association.aspx>).

the Greater Houston Ministerial Association, a group of Protestant, predominantly Southern Baptist clergymen, to address what was then called “the Catholic Question” in American politics: could an adherent to the Roman Catholic religion be elected president of the United States?

At a distance of fifty years, the very question may seem antiquated and distasteful—a whiff of a bigotry now overcome, not least as a result of Kennedy’s well chosen words, as well as his exemplary performance as the first Catholic president of the United States. Today, some 161 members of Congress are Catholics—30.1% of the federal legislature—despite an adult American population that is only 23.9% Catholic.² Catholics are even more heavily represented among U.S. governors. Twenty-one governors, or forty-two percent of the total, are Catholics.³ Evidently, Americans trust Catholics to be their representatives and executives even more than they do most other religions. Most remarkably of all, fully two-thirds of the U.S. Supreme Court justices are Catholics, while not a single justice is a member of a Protestant denomination.⁴ Vice President Joe Biden is a Catholic.⁵ So are former House Speaker Nancy Pelosi⁶ and the 2004 Democratic presidential candidate, John Kerry.⁷

The Catholicism of these leaders has not been an issue, at least not in the way it was an issue for John F. Kennedy, and before him for Al Smith, the Democratic party’s candidate for President in 1928.⁸ Then, the fear was that Catholic officeholders might be too obedient to the teachings of their Church.⁹ Today, to the extent the Catholicism of a candidate is even noticed, it is more likely that people won-

2 David Masci & Tracy Miller, *Faith on the Hill: 2008*, PEW F. (Dec. 19, 2008), <http://pewforum.org/Government/Faith-on-the-Hill-The-Religious-Affiliations-of-Members-of-Congress.aspx>.

3 See *Biographies of Current Governors*, NAT’L GOVERNORS ASS’N, <http://www.nga.org/portal/site/nga/menuitem.42b929b1a5b9e4eac3363d10501010a0/?vgnnextoid=d54c8aaa2ebbf00VgnVCM1000001a01010aRCRD&vgnnextfmt=curgov> (last visited June 18, 2011) (providing links to biographies of current governors).

4 See Adam Liptak, *Stevens, the Only Protestant on the Supreme Court*, N.Y. TIMES, Apr. 10, 2010, <http://www.nytimes.com/2010/04/11/weekinreview/11liptak.html>. Justice Stevens was replaced by Justice Elena Kagan, who is Jewish.

5 See Amy Sullivan, *Does Biden Have a Catholic Problem?*, TIME, Sept. 13, 2008, <http://www.time.com/time/politics/article/0,8599,1840965,00.html>.

6 Nico Pitney, *Pelosi Blasts McCain over Anti-Catholic Pastor*, HUFFINGTON POST (Mar. 6, 2008, 4:33 PM), http://www.huffingtonpost.com/2008/03/06/pelosi-blasts-mccain-over_n_90302.html.

7 *About John Kerry*, JOHNKERRY.COM, <http://johnkerry.com/pages/about> (last visited June 18, 2011).

8 See SHAUN A. CASEY, *THE MAKING OF A CATHOLIC PRESIDENT* 5 (2009).

9 See *id.* at 138–39.

der how these public figures can square their professed Catholicism with their evident lack of agreement with much that the Church teaches.¹⁰ Pelosi, Biden, and Kerry, for example, are ardent supporters of the freedom to have an abortion, which the Church regards as an evil.¹¹

Of course, a lot has changed since 1960. The nation has changed. Americans today are more religiously diverse¹² and more tolerant at least in some ways.¹³ The great religious divide has shifted from Protestant/Catholic to secular/religious.¹⁴ Today there may be more tension between more and less observant or orthodox believers within religious denominations than there is between those denominations.

Catholic doctrine has changed. Just a few years after Kennedy gave his speech, the great council at Vatican II largely adopted American notions of religious freedom and church-state separation,¹⁵ thus putting to rest one of the most vexing issues facing Catholic candidates like Kennedy.

And Catholic Americans have changed. For the worse as well as for the better, Catholics have come to resemble Protestants. When Kennedy spoke, Catholics attended church more often than Protestants did.¹⁶ Now those rates are about the same.¹⁷ And Catholics now pay about as much attention to church teachings as Protestants do. Recent polls by the Pew Research Center have shown that Catholic attitudes toward such issues as abortion and homosexuality differ

10 See, e.g., Neela Banerjee, *Backing Abortion Rights While Keeping the Faith*, N.Y. TIMES, Feb. 27, 2007, <http://www.nytimes.com/2007/02/27/us/27choice.html>.

11 See CATECHISM OF THE CATHOLIC CHURCH §§ 2270–2271, at 547–48 (2d ed. 2000).

12 See Joanne Beckman, *Religion in Post-World War II America*, NAT'L HUMAN. CENTER, <http://nationalhumanitiescenter.org/tserve/twenty/tkeyinfo/trelww2.htm> (last updated Oct. 2000).

13 See ALAN WOLFE, *ONE NATION, AFTER ALL* 278 (1998).

14 See JAMES DAVISON HUNTER, *CULTURE WARS* 45–46 (1991).

15 See SECOND VATICAN ECUMENICAL COUNCIL, DIGNITATIS HUMANAЕ [DECLARATION ON RELIGIOUS FREEDOM] ¶ 2 (1965), available at http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html (“The council further declares that the right to religious freedom has its foundation in the very dignity of the human person . . .”).

16 See Lydia Saad, *Churchgoing Among U.S. Catholics Slides to Tie Protestants*, GALLUP (Apr. 9, 2009), <http://www.gallup.com/poll/117382/church-going-among-catholics-slides-tie-protestants.aspx>.

17 See *id.*

hardly at all from the general population.¹⁸ In fact, according to Gallup polls, today conservative and evangelical Protestants are more likely to agree with many Catholic teachings than Catholics are.¹⁹ So we are in a different world than the one facing John F. Kennedy as a Catholic American running for President in 1960.

To understand his speech, it is necessary to go back and discover anew why so many thoughtful people in 1960 believed there might be concerns about electing a Roman Catholic as president of the United States. This perspective may enable us to reflect upon Senator Kennedy's response, and what it might portend for the vexing question of religion and politics in a liberal republic even today. Let us consider what some historians have called the oldest prejudice in America,²⁰ the history of anti-Catholicism in the United States.

At the time of the Founding, there were about 30,000 Catholics in the United States—less than one percent of the population.²¹ Most lived in the state of Maryland, which had been founded as a refuge for Catholics from British oppression.²² There was no Catholic church south of Maryland before the signing of the Constitution.²³ Some Founders preferred to keep Catholics out of the new nation. In 1777, when New York was drafting its first state Constitution, John Jay—co-author of *The Federalist Papers* and first Chief Justice of the United States—led an effort to exclude Catholics from citizenship, unless they forswore belief in transubstantiation and allegiance to the pope.²⁴ Such anti-Catholic attitudes in the minds of early Americans stemmed from deeply engrained association of Catholics with the

18 See *A Portrait of American Catholics on the Eve of Pope Benedict's Visit*, PEW RES. CENTER (Mar. 27, 2008), <http://pewresearch.org/pubs/778/a-portrait-of-american-catholics-on-the-eve-of-pope-benedicts-visit>.

19 See Jeffrey M. Jones, *Preaching to Another Church's Choir?*, GALLUP (Apr. 26, 2005), <http://www.gallup.com/poll/16027/Preaching-Another-Churchs-Choir.aspx>.

20 See, e.g., JOHN TRACY ELLIS, *AMERICAN CATHOLICISM* 151 (2d rev. ed. 1969) (recognizing "the prejudice against your Church as the deepest bias in the history of the American people" (quoting Professor Arthur M. Schlesinger, Sr.)).

21 See ROBERT T. HANDY, *A CHRISTIAN AMERICA* 51 (2d rev. ed. 1984).

22 See JOHN O'KANE MURRAY, *A POPULAR HISTORY OF THE CATHOLIC CHURCH IN THE UNITED STATES* 138 (10th ed. 1892). The first Bishop of Baltimore estimated in 1790 that the number of Catholics in Maryland was 16,000. See J.F. Regis Canevin, *Loss and Gain in the Catholic Church in the United States (1800–1916)*, 2 *CATH. HIST. REV.* 377, 380 (1917).

23 See *First Catholic Church in Virginia*, HIST. MARKER DATABASE (June 21, 2008), <http://www.hmdb.org/marker.asp?marker=8475>; *History of the Diocese of Charleston*, CATH. DIOCESE CHARLESTON (Jan. 2011), <http://www.catholic-doc.org/doc-history.php>.

24 See CHARLES LINCOLN, *THE CONSTITUTIONAL HISTORY OF NEW YORK* 451 (1906); see also JOHN JAY & SARA LIVINGSTON JAY, *SELECTED LETTERS OF JOHN JAY AND SARA*

royal absolutism of the last Catholic king, James II,²⁵ the oppression of Protestants in France after the revocation of the edict of Nantes²⁶ and opposition to studying the Bible in the vernacular.²⁷

Nevertheless, relations with the Catholic minority were relatively peaceful until the 1830s, when Catholic immigrants, especially those from Ireland, began pouring into this country in large numbers.²⁸ Soon there were anti-Catholic riots,²⁹ Catholic churches were burned,³⁰ and Catholic students were beaten in public schools for refusing to use the King James Bible or the Protestant version of the Lord’s Prayer.³¹ By the 1850s, the nativist and anti-Catholic Know Nothing Party had gained power in a number of states.³² After the Civil War, President Ulysses S. Grant predicted the new divide would be between Protestants and Catholics, or as he put it, “between patriotism and intelligence on one side, and superstition, ambition, and ignorance on the other.”³³

The Catholic Church did not help matters when Pope Pius IX issued a *Syllabus of Errors*³⁴ seemingly condemning liberalism, freedom of religion, separation of church and state, and even Americanism.³⁵ For example, the *Syllabus* condemned as an error the teaching that “[e]very man is free to embrace and profess that religion which, guided by the light of reason, he shall consider true.”³⁶ Nor did the

LIVINGSTON JAY app. at 295 (Landa M. Freeman et al. eds., 2005) (discussing the Huguenot roots of Jay’s antagonism to Roman Catholicism).

25 JOHN T. MCGREEVY, *CATHOLICISM AND AMERICAN FREEDOM* 170 (2003).

26 See *Edict of Nantes*, ENCYC. BRITANNICA (2011), <http://www.britannica.com/EBchecked/topic/402718/Edict-of-Nantes>.

27 See DIANE RAVITCH, *THE GREAT SCHOOL WARS* 45 (1974); John C. Jeffries, Jr. & James E. Ryan, *A Political History of the Establishment Clause*, 100 MICH. L. REV. 279, 300 (2001).

28 See Jeffries & Ryan, *supra* note 27, at 303.

29 See *id.* at 300.

30 See Margaret E. Fitzgerald, *The Philadelphia Nativist Riots*, ANCIENT ORD. HIBERNIANS—DIVISION 51, <http://www.aoh51fishtown.com/id21.html> (last updated June 11, 2011).

31 See Jeffries & Ryan, *supra* note 27, at 300; see also *Commonwealth v. Cooke*, 7 AM. L. REG. 417, 418, 426 (Mass. Police Ct. 1859) (acquitting teacher charged with assault for beating Catholic school boy for refusing to recite the Ten Commandments from the King James Bible).

32 See LLOYD P. JORGENSEN, *THE STATE AND THE NON-PUBLIC SCHOOL, 1825–1925*, at 28–30 (1987).

33 Ulysses S. Grant, Speech to the Veterans of the Army of the Tennessee (Sept. 25, 1875), *quoted in The Week*, NATION, Oct. 7, 1875, at 1, 1.

34 See PIUS IX, *SYLLABUS OF ERRORS* (1864), *available at* <http://www.papalencyclicals.net/Pius09/p9syll.htm>.

35 See *id.*

36 *Id.*

Church help itself, in some quarters, by defending slavery, or more precisely, opposing emancipation.³⁷ To many American liberals, the Church appeared to be a force against democracy, liberty, and freedom of thought.³⁸ Philosopher George Santayana, writing in *The New Republic* in 1916, declared that “[i]f . . . the Catholic church ever became dominant in America, it would without doubt . . . transform American life and institutions. . . . [I]t would abolish religious liberty, the freedom of the press, divorce, and lay education.”³⁹ Theodore Roosevelt stated that the Catholic Church “is in no way suited to this country and can never have any great permanent growth except through immigration, for its thought is Latin and entirely at variance with the dominant thought of our country and institutions.”⁴⁰

Anti-Catholic sentiment helped defeat Al Smith in the 1928 presidential election,⁴¹ though almost any Democrat would have lost to the popular Herbert Hoover, whatever his religion.⁴² And anti-Catholicism did not subside even after the terrible events of World War II. In 1948, critics of the Church formed a new organization, called Protestants and Other Americans United for the Separation of Church and State (POAU) with the objective of “resist[ing] the declared purposes of the Roman Catholic Church further to breach the wall of separation between church and state.”⁴³ The organization raised \$1,000,000 in its first year.⁴⁴ At its first meeting, Methodist Bishop G. Bromley Oxnam, a pillar of the mainline establishment, decried the “policies of the hierarchy to establish here a culture alien to the traditions of a free people.”⁴⁵

With the serious prospect of a Catholic president in 1960, these long-simmering concerns came boiling out. POAU ran ads in major newspapers warning of the Catholic menace,⁴⁶ and one of its officers published a widely quoted article called *If the U.S. Becomes 51% Catho-*

37 See MCGREEVY, *supra* note 25, at 51–52.

38 See PHILIP HAMBURGER, SEPARATION OF CHURCH AND STATE 203–06 (2002); Marc D. Stern, *Blaine Amendments, Anti-Catholicism, and Catholic Dogma*, 2 FIRST AMENDMENT. L. REV. 153, 176 (2003).

39 George Santayana, *The Alleged Catholic Danger*, NEW REPUBLIC, 1916, at 269.

40 JORGENSEN, *supra* note 32, at 130.

41 See ROBERT A. SLAYTON, EMPIRE STATESMAN 304–17 (2001).

42 See MCGREEVY, *supra* note 25, at 213.

43 *Religion: The Wall of Separation*, TIME, Feb. 7, 1949, at 68. This organization still exists, though it has dropped the first three words from its name.

44 See *id.*

45 *Id.* at 69.

46 See Sarah Barringer Gordon, “Free” Religion and “Captive” Schools: Protestants, Catholics, and Education, 1945–1965, 56 DEPAUL L. REV. 1177, 1192–94 (2007).

lic.⁴⁷ Meanwhile, the National Association of Evangelicals issued a tract entitled *Shall America Bow to the Pope of Rome?*, arguing against an American ambassador to the Vatican.⁴⁸

The fullest statement of the reasons for opposition to a Catholic president can perhaps be found in an editorial in the evangelical Protestant magazine, *Christianity Today*. Entitled *Bigotry or Smear?*, the editorial explained that "[f]ar from bigotry, opposition to the nomination and election of a Romanist is perfectly rational":⁴⁹

Opposition to political Romanism is not unreasoning, because a Catholic in the presidency would be torn between two loyalties as no Protestant has ever been. A candidate may announce, and even sincerely believe, that he is immune to Vatican pressure; but can we be sure that he will not succumb in the confessional booth to threats of purgatory and promises of merit from the organization which he believes to hold the keys of heaven?

The Vatican does all in its power to control the governments of nations, and in the past and present it has often succeeded. The Pope favored Mussolini's conquest of Ethiopia. He made a concordat with Hitler, a concordat that still is in force in Germany as a last remnant of an evil rule. . . . We know that Romanists do not accept the separation of the Church and State; we know that they oppose a government's treating all churches alike; we know that they constantly seek tax money for their own uses.

Informed Protestants therefore believe, not at all irrationally, that the interests of the nation are safer in the hands of one who does not confess to a foreign, earthly power.⁵⁰

The central elements in this indictment are that Catholic officials will not feel free to follow their own judgment but will submit to the dictates of the hierarchy, either because they believe the hierarchy has moral authority or because of fear of purgatory or excommunication, and that the Church will pursue religious hegemony whenever it has the opportunity. "Where the Romanists are strong enough, they persecute; where less strong, they oppress and harass; where they are in the minority, they seek special privileges, government favor, and more power."⁵¹

These sentiments were not confined to evangelicals or to backwoods bigots. The leader of the opposition to a Catholic president

47 See C. Stanley Lowell, *If the U.S. Becomes 51% Catholic*, CHRISTIANITY TODAY, Oct. 27, 1958, at 8.

48 See James DeForest Murch, *Shall America Bow to the Pope of Rome?*, UNITED EVANGELICAL ACTION, Nov. 1, 1951, at 12.

49 *Bigotry or Smear?*, CHRISTIANITY TODAY, Feb. 1, 1960, at 20.

50 *Id.*

51 *Id.*

was Norman Vincent Peale, minister of a posh society church on Fifth Avenue in Manhattan and best remembered as the author of *The Power of Positive Thinking*.⁵² Peale played an integral role in the founding of a group called the National Conference of Citizens for Religious Freedom, designed to counter Kennedy's candidacy.⁵³

Perhaps the leading anti-Catholic intellectual was Paul Blanshard, twin brother of the chair of the Philosophy Department at Yale and legal counsel to POAU.⁵⁴ Just ten years before the Kennedy speech, Blanshard wrote a book entitled *American Freedom and Catholic Power*, first published as a series of articles in *The Nation*,⁵⁵ which then as now was the leading voice of the left-progressive side of the ideological spectrum. As a book it became a best-seller and a Book of the Month Club selection.⁵⁶ It called for a "resistance movement" to the Catholic Church, to counter the "antidemocratic social policies of the hierarchy."⁵⁷ Blanshard claimed that Catholic schools were "the most important divisive instrument in the life of American children"⁵⁸ and blamed them for producing the bulk of "white criminals."⁵⁹ The book garnered favorable comments from John Dewey, McGeorge Bundy, Bertrand Russell, Albert Einstein, and Horace Kallen.⁶⁰

Dewey, America's foremost public philosopher, praised the book for its "exemplary scholarship, good judgment, and tact."⁶¹ One wonders what a tactless attack on the Catholic Church would look like. Dewey himself wrote an essay urging that giving aid to parochial schools should "be seen for what it is, namely, as the encouragement of a powerful reactionary world organization . . . with the resulting promulgation of principles inimical to democracy."⁶²

Politically, although his Catholicism could help as well as hurt Kennedy's chances, the Gallup Poll early in the campaign found that when voters became aware of Kennedy's Catholicism, he lost about

52 See THOMAS J. CARTY, *A CATHOLIC IN THE WHITE HOUSE?* 50–52 (2004).

53 See *id.* at 58–60.

54 See MCGREEVY, *supra* note 25, at 169.

55 See *id.* at 166.

56 See *id.*

57 PAUL BLANSHARD, *AMERICAN FREEDOM AND CATHOLIC POWER* 347 (2d rev. ed. 1958).

58 *Id.* at 340.

59 *Id.* at 105.

60 See MCGREEVY, *supra* note 25, at 167.

61 *Id.*

62 John Dewey, *Implications of S. 2499, NATION'S SCHS.*, Mar. 1947, reprinted in 15 JOHN DEWEY, *THE LATER WORKS, 1925–1953*, 285 (Jo Ann Boydston ed., 1989).

seven percent of his support.⁶³ This slip could make the difference in swing states like Texas, Missouri, Michigan, and West Virginia. Democratic Party operatives were alarmed.⁶⁴

The Houston speech was Senator Kennedy's answer to these charges. It has gone down in history as one of the finest and most effective speeches ever made by a candidate for president of the United States.⁶⁵ Two days after the speech, the *New York Times* headline reported *Protestant Group Applauds Kennedy for Houston Speech*.⁶⁶ The article quoted a statement by Peale's Committee for Religious Freedom calling the speech "the most complete, unequivocal and reassuring statement which could be expected of any person in his position"—though the committee still declined to be satisfied until the Catholic Church itself endorsed Kennedy's position.⁶⁷

Kennedy ultimately got about thirty-four percent of the white Protestant vote,⁶⁸ approximately the same percentage that Adlai Stevenson had received in 1956.⁶⁹ But he got eighty-three percent of the Catholic vote,⁷⁰ instead of the forty-five percent Stevenson had gotten.⁷¹ That is how Kennedy defeated Richard Nixon: he neutralized anti-Catholic sentiment while rallying Catholics, including Catholic Republicans, to his support. It was an extremely effective speech.

But I want to reflect upon Kennedy's speech not as a political campaign tactic, but as the first and most important statement by a member of a religious minority running for high political office in the United States, addressing the relation of his religious faith to the demands of public service:

[C]ontrary to common newspaper usage, I am not the Catholic candidate for President. I am the Democratic Party's candidate for President who happens also to be a Catholic. I do not speak for my church on public matters—and the church does not speak for me.

63 See George Gallup, *Kennedy Chance Hurt by Religion Factor*, L.A. TIMES, May 7, 1959, at 25.

64 See CARTY, *supra* note 52, at 78, 141–42; CASEY, *supra* note 8, at 68–70, 158.

65 See, e.g., *Top 100 American Speeches of the 20th Century*, U. WIS.-MADISON NEWS, <http://www.news.wisc.edu/misc/speeches> (last visited June 18, 2011) (displaying the results of a scholarly study ranking Kennedy's address as the ninth greatest American speech of the twentieth century).

66 See Peter Braestrup, *Protestant Group Applauds Kennedy for Houston Speech*, N.Y. TIMES, Sept. 14, 1960, at 33.

67 *Id.*

68 CASEY, *supra* note 8, at 200.

69 *Id.*

70 *Id.*

71 *Id.*

Whatever issue may come before me as President—on birth control, divorce, censorship, gambling or any other subject—I will make my decision in accordance with these views, in accordance with what my conscience tells me to be the national interest, and without regard to outside religious pressure or dictates. And no power or threat of punishment could cause me to decide otherwise.

But if the time should ever come—and I do not concede any conflict to be even remotely possible—when my office would require me to either violate my conscience or violate the national interest, then I would resign the office; and I hope any conscientious public servant would do the same.⁷²

This was the most important passage of his speech. It was the basis for the *New York Times* headline the next morning: *Kennedy Assures Texas Ministers of Independence*.⁷³ It addressed the critics' most powerful fear that Catholic officeholders would follow the instructions of the Catholic hierarchy on matters of public policy such as birth control, divorce, education, or foreign policy—either because they regarded the Church as having final authority on matters touching morality or because of threats of excommunication.⁷⁴ By assuring his audience that he would use his own independent judgment, Kennedy largely put that concern to rest.⁷⁵

Significantly, this part of the speech does not announce any political principle distinctive to religion. As far as this passage is concerned, it would be just as objectionable for a politician to take orders from a labor union leader, a political boss, a newspaper, or a campaign contributor as it would be to take orders from a church leader. As Americans, we want our leaders to exercise independent judgment. That is what Kennedy promised. Whatever his audience may have heard or thought, this part of the speech did not lay down special rules for religious influences on politics.

Even so, one might find some of his language in this passage excessive. He says he is the Democratic Party's candidate for President, who "happens also to be a Catholic."⁷⁶ The words are jarring. Most religious people have reasons for being of a particular faith, which matter and which say something about their understanding of authority and of the ways God works in the world. They do not simply

72 Kennedy, *supra* note 1.

73 See W.H. Lawrence, *Kennedy Assures Texas Ministers of Independence*, N.Y. TIMES, Sept. 13, 1960, at 1.

74 See *id.*

75 See *id.*

76 Kennedy, *supra* note 1.

"happen" to be of one creed or another. Religion is too deeply a part of moral and intellectual identity to be dismissed as a happenstance.

The untroubled way in which Kennedy cabins his religion is also conspicuous: "I believe in a president whose religious views are his own private affair, neither imposed by him upon the nation or imposed by the nation upon him as a condition to holding that office."⁷⁷ Senator Kennedy says that religion is his "private affair,"⁷⁸ apparently irrelevant to his public service. That is why he regards it as so unfair for people to be asking these questions instead of focusing on the "real issues." As he put it in the quote that began this Essay, the kind of church he believes in is "important only to me."⁷⁹ Would Kennedy say the same about other important associations? What if he belonged to the NRA, or the Sierra Club, or the Council on Foreign Relations? Or any other group that takes positions on matters of public import? Is it unfair for voters to inquire how these memberships might reflect or influence his public views? Why is religion different?

This brings me to my first reservation about Kennedy's speech: it is entirely negative and defensive. He tells us why we should not vote *against him* because of his Catholicism. He does not offer any hint of a reason why his Catholicism might be an attractive feature even to some non-Catholics.

On every issue Kennedy mentions in the speech, with one possible exception, he distances himself from positions of the Catholic Church:

I ask you tonight to follow in that tradition—to judge me on the basis of my record of fourteen years in Congress—on my declared stands against an Ambassador to the Vatican, against unconstitutional aid to parochial schools, and against any boycott of the public schools (which I have attended myself.)⁸⁰

He is against an ambassador to the Vatican. He thinks aid to parochial schools is unconstitutional. He would make up his own mind on issues of birth control, divorce, censorship, gambling, "in accordance with what my conscience tells me to be in the national interest, and without regard to outside religious pressure or dictates."⁸¹ This invites the question: Would a Catholic politician be disqualified from office, in Kennedy's estimation, if he *agreed* with his church's position, or if

77 *Id.*

78 *Id.*

79 *Id.*

80 *Id.* Kennedy attended public school from kindergarten through second grade.

81 *Id.*

his conscience were formed, at least in part, by the teachings of his church?

And was there nothing in the social teaching of the Church to which Kennedy could point with pride and approval? One would never know from Kennedy's speech, for example, that the Catholic Church had been a strong and early supporter of labor unions and was leading the way on the issue of racial desegregation.⁸² In 1946, ten years before *Brown v. Board of Education II*,⁸³ the Catholic diocesan school district of St. Louis was the first school system in the South to desegregate, and did so over vociferous local opposition.⁸⁴

It was the hierarchical and undemocratic character of the Catholic Church, which so concerned many Americans, that enabled it to take this stand. In the more democratic Protestant churches, any southern clergyman who dared to oppose segregation would have risked expulsion from the pulpit. But in St. Louis and later in other cities of the south, determined bishops and archbishops ran roughshod over local prejudices, often dismissing and sometimes even excommunicating local priests who resisted their decrees about desegregation of Catholic churches and schools.⁸⁵

More broadly, the emphasis of Catholic social thought for the past several hundred years has been on the importance of the common good—a rejection of both the radical individualism of liberal capitalism and the totalitarianism of socialism and communism.⁸⁶ In many ways, Catholic social teaching about the subordination of private interests to the common good has a deeper connection to the Puritan and republican origins of the American Republic than does subsequent liberal individualism. These teachings would seem to be congenial to Kennedy as a liberal Democrat. Why was he unwilling to mention them?

Perhaps on some public issues there is no logical relation between church teaching about faith and morals and a statesman's conclusions about public policy. Foreign affairs—even whether to send an ambassador to the Vatican—might generally fall into that category. So might much of the important work of the federal government, where issues revolve around contested means rather than ends. But with respect to some of the issues singled out by Kennedy for

82 See MCGREEVY, *supra* note 25, at 130–31, 209–10.

83 349 U.S. 294 (1955).

84 See MCGREEVY, *supra* note 25, at 210.

85 See *id.*

86 See Angela C. Carmella, *A Catholic View of Law and Justice*, in *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* 255, 265–68 (Michael W. McConnell, Robert F. Cochran, Jr. & Angela C. Carmella eds., 2001).

ment—divorce, gambling, birth control—it is hard to see how to disaggregate morality from policy. Morality and public policy have different purposes, but unless the common good is an amoral concept, they often substantially overlap. For example, if gambling is a kind of sickness, and profit from gambling a form of exploitation (especially of the poor), could a conscientious Catholic official advocate government promotion of a lottery? It would have been especially interesting to hear Kennedy apply Catholic social thought, to the extent he agreed with it, to the issue of abortion, which was just beginning to be controversial in 1960. He might have found his evangelical listeners receptive to the message. It might have suggested to them an affirmative reason, grounded in the public good, to doubt that religious beliefs should be regarded as purely private.

This brings us to the issue of the separation of church and state, which occupied the greatest part of Kennedy’s speech. This was a delicate issue because official Catholic teaching on the subject of church-state separation was in flux, caught between traditional European Catholic hostility to anticlerical liberalism on the French Revolutionary model and more modern, American-style benevolent neutrality toward religion.⁸⁷ At the time of Kennedy’s speech, a number of Vatican pronouncements condemning church-state separation were still extant and theoretically authoritative,⁸⁸ even though many Catholics, especially in America, regarded them as anachronistic.⁸⁹ The Church appeared to embrace religious freedom only when Catholics were in a minority, but not necessarily thereafter.⁹⁰

America’s leading Catholic theologian of religious freedom, John Courtney Murray, had been ordered by his Jesuit superiors to stop working on the subject.⁹¹ It was not until Vatican II, a few years after Kennedy’s speech, that the Church adopted Father Murray’s views and became an unequivocal advocate for religious freedom.⁹² It is therefore not surprising, and not entirely a result of bigotry, that critics of the Church dwelt on this subject. It was the most delicate prob-

87 See John J. Coughlin, *The Foundation of Human Rights and Canon Law*, in *INTRAC-TABLE DISPUTES ABOUT THE NATURAL LAW* 251, 265 (Lawrence S. Cunningham ed., 2009); Thomas A. Howard, *The Dialectic and the Double Helix*, *FIRST THINGS*, Mar. 2011, at 21.

88 See Walter Kasper, *The Theological Foundations of Human Rights*, 50 *JURIST* 148, 153 (1990).

89 See *id.*

90 See *Religion: Liberty & Catholicism*, *TIME*, Mar. 21, 1960, <http://www.time.com/time/magazine/article/0,9171,894816,00.html>.

91 See McGREEVY, *supra* note 25, at 207–08.

92 See Mark S. Massa, *A Catholic for President?: John F. Kennedy and the “Secular” Theology of the Houston Speech, 1960*, 39 *J. CHURCH & ST.* 297, 313–14 (1997).

lem for Kennedy to address. Indeed, we now know that Kennedy contacted John Courtney Murray in advance of the speech to ask whether it was even possible to square Catholic teaching with a belief in church-state separation.⁹³ Here is what Kennedy said:

I believe in an America that is officially neither Catholic, Protestant nor Jewish—where no public official either requests or accepts instructions on public policy from the Pope, the National Council of Churches or any other ecclesiastical source—where no religious body seeks to impose its will directly or indirectly upon the general populace or the public acts of its officials⁹⁴

He returned to the issue a few moments later:

[J]udge me on the basis of my record of 14 years in Congress . . . instead of judging me on the basis of these pamphlets and publications we all have seen that carefully select quotations out of context from the statements of Catholic church leaders, usually in other countries, frequently in other centuries, and rarely relevant to any situation here, and always omitting, of course, the statement of the American Bishops in 1948 which strongly endorsed church-state separation, and which more nearly reflects the views of almost every American Catholic.

I do not consider these other quotations binding upon my public acts. Why should you?⁹⁵

There are a number of points worth noting about this part of the speech. First, Kennedy's reference to official Vatican documents as "statements of Catholic church leaders, usually in other countries, frequently in other centuries," is an exceedingly odd way for a Catholic to describe official statements from the Vatican. That official church statements are usually made "in other countries" can scarcely be surprising in a worldwide, a Catholic, church, headed by the Pope in Rome. And that official church statements were frequently handed down in "other centuries" can scarcely be surprising in a centuries-old church that claims the authority of the Magisterium. Did Kennedy mean to imply that there is something suspect about statements made outside of the United States and prior to the Twentieth Century? No wonder that many of his Baptist listeners that day in Houston were pleased with his speech.

Second, it is striking that the only official church statement on any issue that Senator Kennedy embraced in his speech is a statement of the American Bishops in 1948. That statement, he says, "strongly

93 See *id.* at 313.

94 Kennedy, *supra* note 1.

95 *Id.*

endorsed church-state separation," and it "more nearly reflects the views of almost every American Catholic" than all those old documents from other countries and other centuries.⁹⁶ There is reason to think, though, that Kennedy misstated the substance of that statement. The 1948 statement of the American Bishops was reprinted in full on page 63 of the *New York Times* of November 21, 1948.⁹⁷ The Bishops entitled their statement *The Christian in Action*; the *New York Times* headlined it *Statement by Catholic Bishops Attacking Secularism as an Evil*.⁹⁸

The Bishops' statement was a critique—not an embrace—of the idea of strict separation. It describes Jefferson's famous paraphrase of the First Amendment, the "wall of separation," as a "misleading metaphor."⁹⁹ It offers an extended—and cogent—criticism of the Supreme Court's decisions in *Everson v. Board of Education*¹⁰⁰ and *Illinois ex rel McCollum v. Board of Education*.¹⁰¹ It describes those decisions as "victories of secularism," and concludes with the "hope and pray[er] that the novel interpretation of the First Amendment recently adopted by the Supreme Court will in due process be revised."¹⁰²

The Bishops affirmed what they called "our original American tradition of free cooperation between government and religious bodies—cooperation involving no special privilege to any group and no restriction on the religious liberty of any citizen."¹⁰³ Cooperation, not separation, is the term the Bishops used, and their insistence on neutrality ("no special privilege") and the primacy of free exercise ("no restriction on religious liberty") were a far cry from Kennedy's "absolute separation."

96 *Id.*

97 See *Statement by Catholic Bishops Attacking Secularism as an Evil*, N.Y. TIMES, Nov. 21, 1948, at 63. Kennedy does not actually identify the statement to which he refers, but this was the only formal statement of the Bishops on the subject of church-state separation in 1948. In that same year, Archbishop John T. McNicholas of Cincinnati, chairman of the administrative board of the National Catholic Welfare Conference, did give an interview in which he denied any intention on the part of the Catholic Church to seek a union between church and state. *Denies Catholics Oppose Separation: Archbishop McNicholas Says Protestant Group Erred in Recent Manifesto*, N.Y. TIMES, Jan. 26, 1948. This seems to come closer to Kennedy's description in terms of content, but it was not a "statement of the American Bishops."

98 *Statement by Catholic Bishops Attacking Secularism as an Evil*, *supra* note 97.

99 *See id.*

100 330 U.S. 1 (1947).

101 333 U.S. 203 (1948).

102 *Statement by Catholic Bishops Attacking Secularism as an Evil*, *supra* note 97, at 63.

103 *Id.*

Third, consider what Senator Kennedy's absolute separation between church and state entails, as a practical matter: "I believe in an America where the separation of church and state is absolute, where no Catholic prelate would tell the president (should he be Catholic) how to act, and no Protestant minister would tell his parishioners for whom to vote. . . ." ¹⁰⁴ But is that really what the First Amendment says? I would have thought the opposite: Catholic prelates may tell the president whatever they wish and Protestant ministers the same. It is, of course, up to officeholders and voters what weight to give these pronouncements. The First Amendment does not begin "Prelates and Ministers shall make no pronouncements." It begins "Congress shall make no law."¹⁰⁵ The First Amendment is not a limit on what churches or church leaders may say, and it is not a limit on what believers choose to agree or disagree with—quite the opposite. The First Amendment allows everyone, even church prelates, to speak their peace, leaving it to citizens to decide how to vote and officeholders to decide how to govern.

Look, for example, at the webpage of the U.S. Conference of Catholic Bishops.¹⁰⁶ It links to official statements of the Bishops on genetic testing, aging, Native Americans, immigration, war, capital punishment, welfare policy, disability, and any number of other subjects.¹⁰⁷ It is hard to believe Kennedy thought there was anything amiss about his church attempting to apply moral teachings to these public issues. Either he must have been misleading his audience, or he was embracing a radically secularist vision of the First Amendment more akin to French *laïcité* than to American pluralism.

The other practical implication of separation, according to Kennedy, is that no church or church school may be granted public funds. Now, if he means that church schools may not be given funds because they are church schools, that is surely correct. But no one was proposing that. In 1960, the question was whether public funds could be used to provide transportation, textbooks, school lunches, health services, or possibly tuition assistance at all accredited schools, on a neutral basis.¹⁰⁸ Kennedy seems to be saying that such assistance would

104 Kennedy, *supra* note 1.

105 U.S. CONST. amend. I.

106 U.S. CONF. CATH. BISHOPS, <http://www.nccbuscc.org> (last visited June 18, 2011).

107 See *Alphabetical Listing of Statements & Speeches*, U.S. CONF. CATH. BISHOPS, <http://www.nccbuscc.org/statements.shtml> (last visited June 18, 2011).

108 See, e.g., Paul G. Kauper, *The Warren Court: Religious Liberty and Church-State Relations*, 67 MICH L. REV. 269, 284–86 (1968) (explaining how the Supreme Court decision in *Board of Education v. Allen*, 392 U.S. 236 (1968), resolved the issue by finding

be unconstitutional. Now we know, or think we know, different; the Supreme Court has held that so long as aid is entirely neutral and no funds pass directly from the government into church school coffers, the First Amendment permits such assistance.¹⁰⁹ It would have been interesting to hear Kennedy explain why he thought otherwise.

Indeed, shortly after Kennedy’s assassination, Congress enacted the first significant bill providing federal aid to education, the Elementary and Secondary Education Act of 1965.¹¹⁰ It provided aid to economically and educationally disadvantaged children, and explicitly treated all schools neutrally—extending aid to public and private, religious and secular schools, without discrimination.¹¹¹ And every federal statute providing aid to education contained a similar neutrality requirement until the recent stimulus package in the last Congress.¹¹² Thus, it was not politically necessary for Senator Kennedy to take the position he did.

Interestingly, although Senator Kennedy told his audience he was opposed to aid to parochial schools, as a congressman from the most Catholic congressional district in the United States, he had supported federal funding of textbooks,¹¹³ medical care,¹¹⁴ and school lunches¹¹⁵ for nonpublic, including religious, schools. I say that not to criticize; I have defended the neutral provision of aid to religious along with secular schools, and regard this aid as in accordance with the best of our constitutional traditions. I only wish Senator Kennedy had explained these things more candidly to his audience.

In his haste to distinguish himself from Catholic teaching in opposition to strict separation, Senator Kennedy fell headlong into the misconceptions of his most bitter opponents. POAU might well

that the use of funds for secular textbooks used in parochial schools was constitutional).

109 See *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002); *Mitchell v. Helms*, 530 U.S. 793 (2000).

110 Pub. L. No. 89-10, 79 Stat. 27 (codified as amended in scattered sections of 20 U.S.C.).

111 See *id.* § 203(a)(3)(B), 79 Stat. at 37 (requiring that states seeking aid provide assurance that the funds “will be provided on an equitable basis for the use of children and teachers in private elementary schools in the state”).

112 See American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115.

113 See Thomas J. Carty, *Secular Icon or Catholic Hero?: Religion and the Presidency of John F. Kennedy*, in *RELIGION AND THE AMERICAN PRESIDENCY* 139, 142 (Mark J. Rozell & Gleaves Whitney eds., 2007).

114 See ROBERT DALLEK, *AN UNFINISHED LIFE: JOHN F. KENNEDY, 1917–1963*, at 147 (2003); Carty, *supra* note 113, at 142.

115 See DALLEK, *supra* note 114, at 147.

think that religious authorities cannot attempt to influence public policy directly or indirectly, and that religiously affiliated schools, hospitals, orphanages, and social welfare activities must be excluded from the benefits of publicly funded programs, but Kennedy should not have agreed with them—and nor should the evangelical ministers in that room. Anti-Catholicism led many Protestants to take positions that no seriously religious or civil libertarian American should have espoused. For the Catholic Bishops were right, in their 1948 statement: a certain extreme version of separationism is really nothing more than the establishment of secularism.

The irony is that the Baptist and other evangelical ministers in attendance should have been more disturbed at what Senator Kennedy was disavowing than at any supposed threat from a Catholic president. The critique of Catholic officeholders published in *Nation* and endorsed by John Dewey and others was not a critique just of Catholic officeholders or of Catholic influence on democracy. It was a denunciation of any seriously religious foundations for political action, and a denial of the right of religious institutions to share evenhandedly in the benefits of public programs. If it is improper for a Catholic politician to draw guidance on issues from the moral teachings of Catholic prelates, it is no more proper for Baptists or Presbyterians or Jews to do the same. As Archbishop Charles Chaput of Denver put it recently, Kennedy's "Houston remarks profoundly undermined the place not just of Catholics, but of *all* religious believers, in America's public life and political conversation."¹¹⁶

What, then, was the importance of Kennedy's Catholicism in the election of 1960? Toward the end of his speech, he explains:

But I do not intend to apologize for these views to my critics of either Catholic or Protestant faith—nor do I intend to disavow either my views or my church in order to win this election.

If I should lose on the real issues, I shall return to my seat in the Senate, satisfied that I had tried my best and was fairly judged. But if this election is decided on the basis that 40 million Americans lost their chance of being President on the day they were baptized, then it is the whole nation that will be the loser, in the eyes of Catholics and non-Catholics around the world, in the eyes of history, and in the eyes of our own people.¹¹⁷

116 Charles J. Chaput, Archbishop of Denver, *The Vocation of Christians in American Public Life* (Mar. 1, 2010) (transcript available at http://www.archden.org/repository/Documents/ArchbishopChaputCorner/Addresses/HoustonBaptistUniv_3.1.10.pdf).

117 Kennedy, *supra* note 1.

We should not underestimate the importance of what he was saying. By running forthrightly, and not apologizing for his Catholicism, and winning, and showing himself to the world as a President of whom we all can be proud, John F. Kennedy won a great victory *for* inclusion and *against* bigotry. But we must not overlook the way in which he reduced religious belief to accident of birth, or more specifically, to baptism. The important question facing the nation was not whether forty million Americans baptized into a certain religion are excluded from the presidency, but whether many more millions of Americans are excluded from full political participation because they ground their understanding of justice and morality in the teachings of their faith. The intellectual descendants of Blanshard and Dewey are still raising this question. Those who spend time in philosophy departments and law schools will recognize its contemporary incarnations. And I am sorry to say that John F. Kennedy's great speech in Houston provides these voices more ammunition than challenge.

