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Public reason secularism : a defense of liberal democracy

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Introduction

Religious disagreements have always been potential challenges for maintaining a peaceful political society. Although religious wars seem to be a thing of the past, religious radicalism has in fact drastically escalated since 9/11. It has become an urgent issue how free and equal citizens, deeply divided by conflicting religious disagreements, can still live together peacefully and endorse the same set of political principles in a liberal democracy. This question makes it necessary to address two issues: first, it demands an answer to the issue of religious disagreement in contemporary politics; second, this answer has to be justified. This dissertation proposes a solution that meets both requirements: the political principle of secularism, as a combination of liberty of conscience and the separation of state and religion, which can be endorsed by all reasonable citizens in a democratic polity. The particular separation of state and religion that I argue for is a separation in the robust sense, meaning that religion ought to be excluded from the public sphere. That is to say, religious arguments should not play any role in public matters, especially in law-making.

My answer follows from considering two issues. One theme is the understanding of the term “secularism”, as secularism is a complicated concept with many different connotations. And understanding “what secularism is” also intertwines with its justification. The other issue is the problem of political legitimacy. Here I follow John Rawls’s *Political Liberalism* in which he understands legitimacy as the justification of the exercise of political power. The justification of secularism as a constitutional principle is thus part of the problem of political legitimacy.

I. Secularism: Political or Philosophical?

My primary aim in this dissertation is to defend a particular constitutional principle, secularism, for our religiously pluralistic world. The term “secularism” was first used by the English scholar George Jacob Holyoake in 1851. Since then, there has been a lot of confusion concerning the exact meaning of the term. At the beginning, secularism was thought of as a transitional period in a larger trend toward atheism. To a large degree, such an understanding of the concept to a large degree stems from the fact that the concept of secularism lacked a clear definition when it was adopted. Such a characterization of secularism and atheism has led to many unnecessary difficulties in understanding and accepting secularism. Today’s heated discussion on religiously motivated violence seems to worsen the tendency to conflate secularism and atheism. What is noteworthy in those discussions is that people tend to misidentify religion as the

root of escalated religious violence, and thus consciously or unconsciously seem to suggest that the best or only solution is the abandonment of religion.

However, atheism is neither a requirement for, nor the future direction of, secularism. Atheism claims the falsity of a deity's existence, whereas, secularism makes no such claim, enabling it to coexist with even the most intense religious beliefs. The main point I am going to make in this dissertation is that secularism should be understood as a political doctrine rather than a philosophical one. Secularism does not arise out of any substantive view on religion. To conflate secularism and atheism would only result in a deeper divide between citizens who hold different religious outlooks and would contribute nothing to the maintenance of a stable political community. Rather, the prescription for the problem caused by religious disagreements must be secularism, a political principle of liberty of conscience and the separation of state and religion. This offers the only perspective under which people of different religious persuasions can live together, and it is also an essential precondition for the freedom of religion. Therefore, the conception of secularism defended in this dissertation is a political rather than a philosophical one.

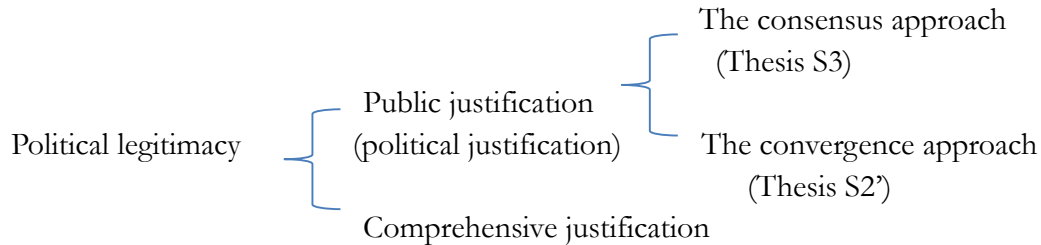
The separation of state and religion, as part of the principle of secularism, is susceptible to several interpretations. I discuss four different theses with regard to this separation, and the majority of this dissertation, from chapter two till the last chapter, is devoted to establishing which of these theses is the most convincing one. The four theses, ranking from the softest to the most robust separation, are: Separation-thesis 1 (S1), the separation of state and religion only demands the non-establishment of a state religion; Separation-thesis 2 (S2), the separation of state and religion requires state neutrality toward all religions; thesis S2', departing from thesis S2, requires the incorporation of all comprehensive views, including all religions, in the public sphere; finally, Separation-thesis 3 (S3), the separation, contends the opposite, and requires the exclusion of religion from the public sphere altogether. Because thesis S1 (separation as non-establishment) turns out to be too general so as to be trivial, and thesis S2 (separation as state neutrality) suffers from the difficulty of defining "neutrality" they are dismissed, and the main debate on the substance of the separation between state and religion in this dissertation therefore will be between thesis S2' and thesis S3.

II. Why Political Liberalism and Public Reason?

Generally, the topic of political legitimacy involves two major approaches: the public justification approach, which means that the political authority is justifiable to all citizens;

and the comprehensive justification approach, which argues that the legitimacy of political authority depends on what truth requires.

See the different approaches to political legitimacy:



Against the backdrop of contemporary societies, Rawls brought the fact of reasonable pluralism to our attention: the fact that citizens are bound to differ greatly on comprehensive doctrines (conceptions of the good, life and death, ontological issues). This is the key idea that explains Rawls's shift from regarding liberalism as a metaphysical doctrine to seeing it as a political doctrine. This disagreement on conceptions of the good in modern society is so profound that the state cannot impose any of these comprehensive conceptions on its citizens as it cannot be justified to all of them. Rawls's description of the fact of reasonable pluralism pushes us to consider how all citizens who share the same political community can harmoniously and prosperously live together. The importance of the fact of reasonable pluralism of comprehensive doctrines does not lie in those doctrines as such; rather, the importance lies in the reasonable citizens in our political community who hold those comprehensive doctrines. Only doing the right thing according to moral truth could be a universal ethical standard for individuals, while politics is not *just* about doing the right thing, since decisions in politics are related to the citizen who lives in the same political society together with their fellow-citizens. Roughly, what essentially matters in political life is not *the truth of comprehensive doctrines* held by the people, but *the people* who hold different comprehensive doctrines. Therefore, that a liberal state should refrain from imposing any particular comprehensive doctrine not due to the merit of one of the comprehensive doctrines, but rather out of respect for the citizens holding those doctrines.

To be clear, I do not mean to suggest that secularism cannot be given a justification by appealing to our comprehensive beliefs. It is perfectly possible that we cannot appreciate the whole truth about secularism without appealing to other beliefs that fall outside the domain of liberal political theory. The approach of political liberalism just insists that whatever the truth may be in the domain of comprehensive doctrines, the only way that we can live together as free and equal citizens is by avoiding judgments on comprehensive truth in politics, and instead committing ourselves to the public

justification of political authority.¹ For this reason, the mainstream debate in contemporary political philosophy on the subject of political legitimacy is how to find the best political justification, under recognition of the fact of reasonable pluralism.

Political liberalism proposes that we abstain from invoking the truth claims of our comprehensive doctrines in the justification of political institutions (e.g., laws). Therefore, the justification of political legitimacy shall be reached on the condition that all reasonable citizens *are expected to endorse* an account of *shareable public reason*, which consists in a family of political conceptions supported by an overlapping consensus of reasonable comprehensive doctrines.

Overlapping consensus is a key concept that Rawls introduces in *Political Liberalism* (represented as *PL* in this thesis) to account for the public justification of a family of political conceptions of justice, regardless of their comprehensive basis. The public justification of a political conception is found when an overlapping consensus is created. An overlapping consensus happens when a family of political conceptions of justice is, at least, not too much in conflict with reasonable comprehensive doctrines.² In other words, political conceptions of justice will gain enough support in spite of their possible conflict with other comprehensive doctrines. The values of the political are very important intrinsic values and therefore they are not easily overridden by comprehensive values. The subject of the overlapping consensus concerns those political values or ideals which would be endorsed by all reasonable citizens in a well-ordered society, and in turn form the foundation for public reason. Public reason holds that fundamental political decisions are to be settled by appealing to these political values, which are expected to be intelligible, understood, and shared by all reasonable citizens.

Since the requirement of “shareability” is a key characteristic of public reason, those comprehensive doctrines that cannot be shared, particularly religious doctrines, are inescapably excluded from the realm of public reason for public justification of political legitimacy. Therefore, the separation of state and religion as a constitutional principle shall be formulated in the light of the restraints imposed by shareable public reason, which leads to the separation principle in the robust sense, meaning that religious reasons shall be excluded from the law-making process. The approach which meets this requirement of shareability of public reason is also called the consensus approach. Likewise, on the basis of a shareable public reason justification, other non-public reasons are excluded too.

Thus, the main thesis of my argument for public reason secularism is established, and it will be explained in detail in chapter three. However, the requirement of

¹ See Jonathan Quong, *Liberalism without Perfection* (Oxford University Press, 2011) 317.

² John Rawls, *Political Liberalism* (Columbia University Press, 1996)139.

shareability of public reason has become an intensely debated issue in contemporary political theory. Many political liberals and religious critics are against the idea that public discussion must be restricted to public reasons; rather, they view the target of public justification as a convergence of the opinions of every single individual's choice, which means that when a convergent political decision is made, citizens should be able to supply any *personal* reason including religious reasons they regard fit for the public forum, and there should therefore not be any constraints. This approach is called the convergence approach. The following chapters describe and evaluate the debate between the consensus approach and the convergence approach, and argue that public reason secularism in the end is the better form of secularism.

III. My Departure from *Political Liberalism*

It is clear by now that in this dissertation my defense of secularism as a political principle will be based on the central ideas of political liberalism, but I also will ultimately part ways with political liberalism. Moreover, I will argue that my departure point is precisely where the project of political liberalism and political justification should be heading.

In *Political Liberalism*, Rawls refrains from explicitly providing any moral foundation for political liberalism for an obvious reason: It might compromise the very assumption of political liberalism, i.e. the fact of reasonable pluralism. The project of political liberalism needs to distance itself from committing to any moral value in order to uphold its commitment to the fact of reasonable pluralism. In order to prevent upending reasonable pluralism, Rawls and some other political liberals such as Jonathan Quong, assume some underlying presumptions of political liberalism in the notion of “persons and society”. According to them, a reasonable person would respect the fact of reasonable pluralism, honoring the free and equal standing of every individual citizen, and recognizing the society as a structure of fair social cooperation. But if we ask *why* a reasonable person has those qualities, their only answer would be “otherwise they are being unreasonable”, which, to some extent, begs the question. In my view, the answer “secularism is publicly justified, because a reasonable person would accept that” is not satisfactory. This answer places too much justificatory force on a rich notion of a reasonable person and society, which political liberalism assumes to be a package deal, whereas it has not said anything about why political liberalism must assume the notion of “a reasonable person and society” in such a thick manner in the first place.

In this dissertation, I argue that political liberalism would be able to account for the richness of its theoretical foundations if it is viewed in the light of Ronald Dworkin's interpretivism, which requires a more conspicuous role for morality to play.

Interpretivism understands a useful theory as an interpretation. And a successful interpretation includes two dimensions: first, it should fit the contemporary liberal institutional and social practices; second, it should also put the practices in the best *moral* light.³ By the same token, I argue that political liberalism calls for a furthermore underlying moral foundation: equal respect for persons. By virtue of the equal respect for persons, we would understand why we take the fact of reasonable pluralism so seriously in the first place. Equal respect for persons will help us to grasp the importance of the fact of reasonable pluralism and understand that the ethical concern that political liberalism harbors is more profound than what its critics are willing to give credit to. If we figure in the cardinal value of equal respect for persons as the foundation of the reasonableness thesis, it is clearer to see that both of the fact of reasonable pluralism and the so-called presumed idea of persons and society actually derive from the equal respect for persons. If we miss the foundational place of equal respect for persons, we will fail to fathom the essential moral concern that the project of political liberalism carries, echoing the very core of liberal tradition: in terms of the coercion of political power, liberalism always prioritizes respect above truth, persons above doctrines.

IV. A Few Caveats

Before offering an outline of the chapters in this dissertation, it is worth making a few remarks regarding what this dissertation is unable to offer. First, this is a dissertation about secularism, but secularism involves various subjects and theses. For instance, secularism also refers to moral autonomy, which aims to disconnect religion from morality in the sense that the authority of morality can stand on its own feet. My discussion is limited, however, to the canon of political and legal philosophy. And I only engage in discussions about secularism in matters of *political* concern. Thus, this dissertation does not have anything specific to say about questions like “do divine commands from God generate any moral obligation?”, although such questions and the present discussions are related; we shall see some of these connections in Chapter Five.

Second, although secularism as a political principle includes the ideas of liberty of conscience and the separation of state and religion, most of the attention in this dissertation goes to the latter part, namely the exploration of the nature of the separation of state and religion. It certainly would be a more all-embracing dissertation if I could have dedicated as much discussion to liberty of conscience; however it would have been a much lengthier one. More importantly, it seems to me that the discussion

³ See Ronald Dworkin’s detailed explication of those two dimensions of interpretation in *Justice in Robes* (Harvard University Press, 2006) 13-18.

concerning what the separation of state and religion entails, is a more controversial and pressing concern; in addition, the appropriate identification of the “separation” in turn has implications for the boundaries of liberty of conscience as well.

Third, although the discussion of this dissertation is in every sense pertinent to matters of law-making, and my arguments largely derive from disputes and disagreements in present-day politics, it does not directly address issues of policy. For instance, it does not intend to give a definitive answer to, for example, issues of abortion or religious manifestations in public. Rather, the arguments in this dissertation are concerned with finding the right *approach* to answer such questions. Therefore, it is more a dissertation about how to reason in these matters, than on what the result of this reasoning in concrete cases would be.

Finally, although it will be repeated many times throughout the dissertation, I have to make clear beforehand that the whole discussion in this dissertation addresses a particular readership which excludes religious fundamentalists, Nazis, racists and other groups who refuse to recognize the equal moral status of every individual and deny them basic rights. In the examination of public justification, when we try to determine whether certain laws are publicly justified, we do not take their illiberal views into consideration. It is not possible to reason with people who deny the fundamental importance of freedom, equality and fairness in any sense, and therefore, when it comes to the justification of constitutional principles or laws, we do not need to justify these principles to them or make them accept our laws. However, what we *can* do is to cultivate a secular shared public culture and to prevent the growth of ideological or religious extremism in our society.

V. Outline of the Chapters of This Dissertation

In the first chapter, I draw an analytical distinction between secularism as a political principle regarding the relation between state and religion, and secularism as a view of religion *per se*. I argue that the latter view mistakenly identifies secularism with atheism. Atheism as I understand it is a view that denies the existence and authority of any deity, whereas secularism as a political principle merely entails the principle of separation between religious and political authority, and therefore does not imply any substantive view of religion as such. Simply put, secularism as a political principle does not engage in metaphysical exploration of theological claims, nor does it hold any hostile views against religion. I argue that atheism is neither theoretically solid nor in any way useful for political purposes. This is because democratic societies are characterized by reasonable pluralism, the permanent fact that citizens are bound to differ greatly on comprehensive

doctrines (conceptions of the good, life and death, religious and moral views, ontological issues). This disagreement is so profound that it is unjust for the state to impose certain comprehensive doctrines, for instance atheism, on the citizens. Therefore, secularism should be approached as a freestanding political principle.

After establishing secularism as a political principle, Chapter Two lays the groundwork for my defense of this principle. Secularism, concerning the relationship between state and religion, is a constitutional principle; hence, its justification is a matter of political legitimacy. Due to the fact of reasonable pluralism, secularism cannot be established or built upon any *comprehensive* justifications. Instead, the justification of secularism should not be comprehensive but *public*, which means that it should be justified to all citizens in a democratic regime. However, a rejection of the comprehensive justificatory approach does not amount to explaining how far the “separation” goes exactly. I therefore discuss four variations of the separation thesis, ranking from the most lenient to the most stringent. First, thesis S1 interprets the separation to simply mean as that there is no state-religion. Second, thesis S2 regards the separation as the strict neutrality of the state with regard to religion. Departing from thesis S2, two contrasting variations are generated, while thesis S2’ understands state-neutrality with regard to all religions as implying the impartial incorporation of all religions in the public sphere, by contrast, thesis S3 sees the separation as implying that religious discourse should be excluded from the public sphere. (To highlight their contrasting relationship, I refer to the approach of thesis S3 as the consensus approach and the approach of thesis S2’ as the convergence approach.) In chapter two, I argue that thesis S1 and S2 are not convincing interpretations of the “separation”.

In Chapter Three, I present the justification for thesis S3 built upon public reason shared by all reasonable citizens in a democratic society. The gist of this argument is that, due to the fact of reasonable pluralism, the justification of political legitimacy shall be reached only if all reasonable citizens endorse an account of *shareable* public reason which consists of a family of political conceptions supported by an overlapping consensus of reasonable comprehensive doctrines. Therefore, those comprehensive doctrines that cannot be shared, notably religious doctrines, are inescapably excluded from public reason. Therefore, the separation of state and religion as a constitutional principle shall be formulated in the light of the requirements of shareable public reason, which leads to the separation principle in the robust sense in the form of S3, i.e. that religion shall be excluded from the public sphere. This approach on the basis of public reason will be referred to as “the consensus approach”.⁴

⁴ The explicit endorsement of the consensus approach can be seen from Thomas Nagel, “Moral Conflict and Political Legitimacy”, in *Philosophy & Public Affairs* 16(1987): 215-40; Charles Larmore,

Because thesis S3's emphasis on the shareability of public reason leads to the exclusion of religion in the public domain, it has been criticized by many who support the interpretation of thesis S2'. They believe that the separation of state and religion ought not to be so rigid that religion is not permitted in politics. They question the formation of an overlapping consensus and they argue that religious citizens can reasonably reject the idea of public reason and its moral duty of civility. They also believe, that when fundamental political matters are at stake citizens are permitted to advocate and vote on the basis of religious reasons alone. Insofar as there is a convergence on a certain institution or laws from individuals, they argue that we do not need a public shared reason underlying such a convergence, and hence there is no strict separation of state and religion. Therefore, I call the approach which advocates for permitting personal standpoints, including religious ones, into politics the convergence approach.⁵ From chapter four till the end, I discuss thesis S2's four major critiques of thesis S3—the Subjectivism Critique, the Asymmetry Critique, the Integrity Critique, and the Assurance Critique—and refute them.

In Chapter Four, I focus on examining thesis S2's two critiques of thesis S3 regarding the plausibility of the shareability requirement of public reason. These two critiques are both based on the fact of reasonable pluralism. The first critique says that, on the basis of the appreciation of the fact of reasonable pluralism, thesis S2' holds that there will not be any public reason that can be shared, as reasons and beliefs are relative or subjective to each individual. The second critique specifically questions the plausibility

“Political Liberalism”, in *Political Theory* 18(1990): 339-60; Stephen Macedo, “Liberal Civic Education and Religious Fundamentalism: The Case of God v. John Rawls” in *Ethics* 105 (1995): 468-96, “Why public reason? Citizens’ reasons and the constitution of the public sphere”, in *Citizens’ Reasons and the Constitution of the Public Sphere (August 23, 2010)*; Jonathan Quong, *Liberalism without Perfection* (New York: Oxford University Press, 2011).

⁵ The two contrasted camps are labelled as the consensus approach and the convergence approach by Fred D’ Agostino. Fred D’ Agostino, *Free Public Reason: making it up as we go along*. (New York: Oxford University Press 1996) 29.

The main figures of the convergence approach include some so-called political liberals as Gerald Gaus, *Justificatory Liberalism: an essay on epistemology and political theory*. (New York: Oxford University Press, 1996); Kevin Vallier, *Liberal Politics and Public Faith: Beyond Separation* (New York: Routledge, 2014), and religious critics such as Michael Perry, “Religious Morality and Political Choice: Further Thoughts--and Second Thoughts--on Love and Power.” *San Diego Law Review* 30 (1993): 703-27; Jeremy Waldron, “Religious Contribution in Public Deliberation”, *San Diego Law Review* 30 (1993): 817-48; Nicholas Wolterstorff, “The Role of Religion in Decision and Discussion of Political Issues”, in Robert Audi & Nicholas Wolterstorff, *Religion in the Public Square: the place of religious convictions in political debate*. (Maryland: Rowman& Littlefield Publishers Inc.1997); Jeffrey Stout, *Democracy and Tradition*. (Princeton: Princeton University Press 2004); Christopher Eberle, *Religious Conviction in Liberal Politics* (Cambridge University Press, 2002); Christopher Eberle, “Consensus, Convergence, and Religiously Justified Coercion,” *Public Affairs Quarterly* 25.4 (2011): 281-303.

of the content of public reason, namely the probability of arriving at an overlapping consensus on a family of conceptions of justice. They argue that, besides reasonable disagreements about comprehensive doctrines, there are also profound and fundamental reasonable disagreements about conceptions of justice. It follows that if comprehensive doctrines are refrained from being introduced in the public domain because they are too controversial, conceptions of justice should be refrained from into public as well. It is hard to explain why only comprehensive doctrines are to be kept out from public reason. Therefore, there is an asymmetry treatment here between comprehensive doctrines and conceptions of justice. Thesis S3's insistence on shared public reason might collapse as there will probably not be any political conception of justice supported by shareable public reasons. In other words, the prospect of forming an overlapping consensus is not as optimistic as the political liberals have imagined it to be. I reject both of these critiques. With regard to the critique based on subjectivism of reasons: the fact that reasonable citizens accept that they are bound to disagree with each other about comprehensive doctrines does not mean that they can also accept others' comprehensive doctrines as justified. Furthermore, even if we confirm the fact of reasonable pluralism, public reason could nevertheless be understood as practically *objective* so long as the content of public reason, namely the political conceptions of justice, are reasonable. As for the critique that points out the fact of reasonable disagreements of justice aside from reasonable disagreements of comprehensive doctrines, I explain that reasonable disagreements of justice are actually anticipated by political liberalism. I also introduce a distinction between "justificatory disagreement" and "foundational disagreement" to illustrate that the former disagreement is not as fundamental as the latter. Moreover, I explain that reasonable disagreements of justice are anticipated, and they are not as foundational as critics claim if we view the project of political liberalism as an interpretive project. And if political liberalism is understood as an interpretive project, it not only anticipates reasonable disagreements of justice, but it will also promote our understanding of justice in political and legal practices.

In Chapter Five, my central focus shifts to one of thesis S2's critique of the desirability of shareable public reason, namely the Integrity Critique. This critique is mainly addressed from the perspective of an individual's moral motivation in following public reason. Those who support thesis S2' have two levels of argument: thesis S3 (1) has damaged religious citizens' integrated existence and (2) has imposed too onerous a burden on citizens and has violated citizens' religious liberty. Thus, the principle of secularism as characterized in thesis S3 is too demanding for citizens to accept and follow. With respect to the first layer of the Integrity Critique, I argue that, first of all, the respect or recognition of one's integrity or identity is not a trumping ideal that directs

one's decisions in every matter of life. And the exclusion of religious argument in the public discussion does not mean disrespecting or degrading religious citizens' integrated existence. Concerning the second level of this critique, I argue that, for starters, this critique conflates legal right and moral evaluation, namely "the (legal) right to do something" and "doing the (morally) right thing". Religious liberty is citizens' fundamental constitutional right; however, countenancing this *legal* right does not imply that every exercise of it is beyond *moral* criticism. Moreover, the benchmark of defining the violation of religious liberty does not depend on the burdens that have been imposed on religious citizens, but upon whether it deprives individuals of a fair opportunity in background conditions for them to pursue and fulfill their religious commitments.

In chapter six, I explore thesis S2's other critique, the Assurance Critique, concerning the desirability of shareable public reason. While the Integrity Critique charges thesis S3 with being too demanding on citizens, the Assurance Critique says that not only can we not be sure that all citizens would agree to Thesis S3's requirement, but we cannot know if they would *actually* comply with it. The assurance problem is not merely a challenge for thesis S3 but also for thesis S2'. Those who endorse thesis S2', however, claim that they offer better solutions to this issue. I identify two of these solutions and point out that neither of them succeeds in solving the assurance problem. One is "the absolutist strategy", in which the state intends to persuade every member and prospective social members to agree with the political decision by understanding every one's comprehensive doctrines. The absolutist strategy has its theoretical attraction in providing every individual member of the society adequate moral motivation to be cooperative. But this solution is problematic in practice due to a lack of efficiency and determinacy in implementing this ambition. The other strategy overcomes those two problems by the use of public rules coupled with the threat of punishment. However, this strategy is also normatively problematic as it fails to supply genuine moral motivation for citizens, which is what makes thesis S2' attractive in the first place. I believe that the root of the inadequacy of thesis S2's approach is the fact that this approach is unable to grasp the core *inter homines* feature of public justification. By contrast, political liberals endorsing thesis S3 have a better plan for the assurance problem. They recognize that the power of public justification lies in the idea that public reasons are for us collectively, rather than for you or for me individually. Moreover, the promise of their solution consists in an underappreciated aspect of public reason, the transformative role of public reason, which precisely explains the transformation or the development of cooperative virtues in reasonable citizens.

In fending off all four major critiques raised by those who support thesis S2', I believe that thesis S3 has been strengthened. Both thesis S3 and thesis S2' offer

compelling but contrasting visions of the relationship of state and religion. The best we can do is to place these two theses side by side and carefully examine their strengths and weaknesses. If my projection of viewing political liberalism as interpretive is cogent, we must decide how well each theory fits with our considered convictions, and which theory offers the best interpretation of the ideal of citizenship and political society. I believe that once we have weighed all the arguments, the following chapters will show that thesis S3 offers the best answer.