

~~1. The Constitution presupposes (1) that there is a truth about human existence, in the sense that there is some way of understanding our existence as human persons that is authentic because it is appropriate to or authorized by (strictly) ultimate reality; and (2) that what this truth is, like all other questions of truth, has to be determined, finally, by reason, i.e., by the critical validation of all claims to existential truth in and through the process of public debate, of argument, criticism, and persuasion.~~

~~2. By reason of the first presupposition, one can reasonably hold that the Republic has--and was clearly understood by its founders to have--a religious foundation. To be sure, the founders themselves formulated this foundation insofar as they spoke of it in the terms familiar to the rational religion of the eighteenth century. Thus, in Benjamin Franklin's words, they affirmed "the existence of Deity; that he made the world and governed it by his Providence; that the most acceptable service of God is the doing of good to men; that our souls are immortal; and that all crime will be punished and virtue rewarded, either here or hereafter." And, in a somewhat similar way, Justice Douglas could say as late as 1952 (Zorach vs. Clausen), that "We are a religious people, whose institutions presuppose a Supreme Being." But this formulation of the religious foundation of the Republic, like any other, is not this foundation, but one particular formulation of it, whose terms derive from the specifically theistic religious tradition, or, in other words, from one answer among possible others to the question of what the religious foundation of the Republic is. As such, it is not the presupposition of the process of critically validating all such answers, but one of the answers requiring validation.~~

~~3. Or could one say that, in point of fact, the relatively few explicit religious formulations in the Republic's charter documents are intended to~~

function purely formally, allowing as how, from our standpoint today, they are exposed as only too material, so far, as least, as the terminology in which they are formulated is concerned? They are intended, in other words, to function in the same way in which my terms are intended to function when I argue that human beings as such typically live out of a basic faith in the meaning of human life, in the sense that they take for granted that ultimate reality has a meaning for us and that we are given and called to understand ourselves, and thus to act, accordingly. Perhaps some day, this terminology, also, will be exposed as only too material to be appropriate to its strictly formal intention, whereupon it will be incumbent upon citizens of the Republic to revise it once again. But what is not open to revision, I should say, except by constitutional amendment, are the presuppositions previously referred to, the first of which is the presupposition of any and all religion, indeed, of any and all attempts to tell existential truth, namely, that there is such a truth and that all human beings are given and called to exist and thus to act in accordance therewith; and the second of which is the presupposition of any and all enlightenment--namely, that religious truth and existential truth in any other forms are no different from any other truth in that ^{they have} ~~it has~~ to be determined, finally, by human reason rather than by appeal ₁ to authority.

4. What I have spoken of here as the presuppositions of the Constitution are, for all practical purposes, what Gamwell calls "the conditions of religious civility," and thus the affirmations comprising "civil religion" in what he takes to be the second sense of the term, in which it refers to "religious affirmations" which are "constitutive of the republic, such that, properly understood, citizenship as such requires them" (1982: 284).

There are, he argues, two such conditions or affirmations, the first of which is that "all public purposes are finally to be assessed in light of some religious purpose, some all-inclusive requirement or ideal." This condition or affirmation does not entail common agreement regarding the substance of this requirement, which is left, rather, to the public debate. "The constitutive conviction is simply that this body politic is judged by some ideal given in 'the most general contexts of human existence' rather than none at all." Thus, while the term "God" that the founders found it possible to use is dispensable, "what is not dispensable . . . is that for which the term 'God' has functioned as a symbol," namely, the "ideal in the nature of things" that the nation exists to serve, to which it is accountable, and by which it is judged (284 f.). "The one thing ruled out, . . . , then, is the view that there is no ideal to which the nation should be responsible, so that each citizen is left with his or her own wants or preferences as the sole basis for judging public purposes." In other words, what is ruled out is "the irreligious view," or "a secularistic basis" for the nation (285). "Irreligious" here, however, means, simply, denial, or failure to affirm, "the one affirmation that life is responsible to some all-inclusive ideal or purpose," understood as "a requirement or ideal that is objective or independent of human choice--a requirement, as it were, delivered to human action" (286, 280). The second condition or affirmation of religious civility is the requirement "to affirm that the religious demands upon public policy are to be discerned by reason and persuasion," or that "the essential truths of religion and their claims upon the civil order may be discovered by human reason" (286).--Just how close my view is to Camwell's is clear from his summary formulation of the two conditions as affirming respectively that "the

Republic is accountable to some religious requirement or ideal, and that the substance of this ideal and its demand upon the public purpose are to be determined by reason and persuasion" (288).

5. Elsewhere (e.g., in 1984), Gamwell introduces my language by saying that, when he defines religion as "the affirmation of a comprehensive or all-inclusive purpose or ideal for human life," he intends his definition "to include by implication the claim that one's comprehensive purpose is authentic, in the sense that it is not merely a private or subjective choice or preference but is the all-inclusive ideal which humans as such ought to pursue" (1984: 326). But he also speaks there in such a way as to appear to deny that religion as such, and so any and all religions, "assert something about the fundamental nature of things" (237). In this connection, he speaks of the "merely ethical religion" of John Dewey as an example of "all-inclusive claims which are 'merely ethical', that is, which assert a comprehensive purpose that is thought to be independent of any metaphysical conviction" (327). Aside from the fact that this hardly does justice to Dewey's understanding of religion, it appears to retract the implications of the original definition on which Gamwell himself insists. Perhaps the closest he comes to composing the apparent contradiction is in 1982: 280, where he says "Still, some reference to reality beyond human existence does seem required, at least in this sense: an all-inclusive commitment is not religious unless it is held to be responsive to a requirement or ideal that is objective or independent of human choice--a requirement, as it were, delivered to human action," or, in other words, what he evidently means by "authentic." But, clearly, any reference whatever to reality beyond human existence is metaphysics; so we're haggling only over the price!--Another passage that may

be relevant to understanding how Gamwell proposes to compose the contradiction is 1984: 336, where he says that, according to his definition, "religion does not necessarily include . . . any explicit [sic] affirmations regarding the ultimate nature of reality." This might suggest that there is no contradiction because "a merely ethical religion" is not "merely ethical" if one has regard to its necessary implications, because being a religion at all, it has to assert that its comprehensive ideal is "authentic," in the sense of being appropriate to the nature of things. On the other hand, since "a merely ethical religion" is not explicitly, but only implicitly, metaphysical, it is, precisely, "merely ethical."

6. Gamwell's revision of his position--from that argued for in 1982 to that argued for in 1984--assumes that there can be an existential truth, or a truth about existence (what he speaks of as "the truth about human life"), that is not religious, even in his broad sense of religious, because it denies that there is any comprehensive ideal or purpose by reference to which everything is to be judged. Or, perhaps one must say that what Gamwell assumes in the later essay is that one can ask the question of whether there is any existential truth without giving any answer to it and that doing so fulfills the only necessary conditions for being an American, provided only that one is willing to allow that any answer to the "comprehensive question," i.e., the question about existential truth, that is to inform public policy has to be established by reason and experience, and thus through some appropriate form of discourse and argument. So far as I can see, this revision would make it impossible to say, as Justice Douglas did say as late as 1952, that "we are a religious people, whose institutions presuppose a Supreme Being," even in the sense in which he can be plausibly held to have

meant this, assuming that he used the language in a purely formal sense. My question, therefore, is whether this revision is not a substantive revision, properly requiring a constitutional amendment.