

BOOK REVIEWS
GEORGE GRANT ON ENGLISH SPEAKING JUSTICE:
A REVIEW

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I. Synopsis of Grant's Lecture Series "English Speaking Justice"

*English Speaking Justice*¹ is George Grant's warning about the future of political and legal justice in England and North America. According to Grant, public political discussion in the English speaking world proceeds on the basis of certain assumptions which are radically different from those of medieval Christendom and ancient Greece. While these modern assumptions are questionable—in Grant's view, they are downright irrational — any political disputant who draws upon the abandoned moral traditions of the West will inevitably be dismissed as a reactionary. The development of any radically new system of moral thought in England and North America is unlikely, because neither place has a tradition of genuine contemplation. While English speaking justice has a history of moderation and decency, the political liberalism central to it may not be able to prevent a future time of moral darkness. In the past, people behaved honourably because of their private religious faith. As that disappears, belief in technological progress and individual material comfort will continue unabated. And if the weak prove to be inconvenient, nothing in the theoretical foundations of English speaking justice will persuade the strong to tolerate them.

That George Grant's works² have received no critical attention from Canadian legal academics is regrettable. Many of us spend our careers interpreting and applying such wisdom as was made available to us when we were graduate students at Harvard, Yale and Chicago schools of law. Others of us, by nature more progressive, act as conduits for the very latest words of wisdom from the Harvard, Yale and Chicago schools of law. Grant, in contrast, takes his inspiration from the gospels and the classics of ancient Greek philosophy. Grant's work merits study not only because he has a radically distinctive perspective on the problem of political justice, but because of the high honesty and intelligence with which he formulates his observations.

Some comment is necessary on Grant's style in *English Speaking Justice*. While it contains some passages of sombre eloquence, many of the arguments are insufficiently developed, many of the allusions obscure. Most of Grant's writing, by contrast, is exceptionally coherent and graceful.³ Perhaps the circumstances of its creation explain some of the problems with *English Speaking Justice*. It was originally presented as the 1974 Wood

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1. G. Grant, *English Speaking Justice*, (Toronto: Anansi, 1985) [hereinafter ESJ].

2. A complete bibliography of Grant's work is contained in L. Schmidt, ed., *George Grant in Process: Essays and Conversations* (Toronto: Anansi, 1978). This publication is a collection of papers about Grant's philosophy which were delivered at Erindale College in 1977, interspersed with transcripts of interviews with Grant.

3. See especially G. Grant, *Time as History* (Toronto: Canadian Broadcasting Corporation, 1970), Grant's beautifully written study of Nietzsche.

Lecture at Mount Allison University.⁴ The demands of oral presentation and perhaps the limited preparatory time available (Lester Pearson was originally the scheduled lecturer, and Grant was called upon to substitute for him⁵) may have adversely affected Grant's literary form. Many of the apparently arcane references in *English Speaking Justice* are actually entirely comprehensible in the light of Grant's earlier works, some of which will be referred to in the course of this review.

Central to *English Speaking Justice* and to Grant's work as a whole is his perception that the modern world has abandoned the idea of objective morality. He contrasts our modern moral subjectivism with the ancient Greek belief that there is in the nature of things an ideal of human virtue which is knowable through reason and with the Christian faith that tradition holds that justice is not a human creation, "but an overriding order in terms of which we are measured and defined." But the modern view, indeed, for Grant, the modern religion, is the fact/value distinction. Facts are objectively discoverable through the methods of science. Values—esthetic, moral, political—are a matter of free human choice. Justice is not instinct in the nature of things, discoverable through the nature of things, discoverable through philosophy, nor is justice defined by the will of God, known through revelation. Widespread abandonment of objective morality is what Nietzsche meant by the death of God. In a published interview in 1978 Grant recalled:

Just recently I sat on a panel with two famous physicists. They both said that the only things that give meaning to the world are scientific and artistic "creativity." This is an idolatry which excludes meaning from most people's lives. The possibility of thinking that our lives are concerned with opening up the structures of justice, in which we can partake, was excluded for these very clever men by what they took to be given in the consequences of modern thought. That is just one example of what one hears everywhere—namely that the English speaking elites are fast becoming Nietzsches, whether they have ever heard of him or not. What a terrifying vision of justice is going to arise from that! That is what scares one about the modern enterprise.⁶

The beginning of modern English speaking political philosophy, according to Grant, was the rejection by Hobbes and Locke of the idea that human virtue is defined by God or given in the nature of things. Their ideal states are concerned not with the moral virtue of the citizenry, but only in ensuring their physical security and personal liberty. For Locke, while nature "... does not provide us with the conception of a highest good; it does provide us with knowledge of the greatest evil, ..."⁷ Human beings, in a state of nature, are equal in their fear of violent death. The origin of civil government is that everyone agrees to an arrangement whereby their chances for comfortable self-preservation are increased. A "social contract" is an agreement whereby people set up and obey a central secular authority whose limited purpose is to maintain public order and adjudicate disputes. Grant interprets Locke as holding that "Justice is those convenient arrangements agreed

4. The lecture series was first published by Mount Allison University in 1978. The republications by Notre Dame and Anansi presses state that they are essentially the same as the Mount Allison version, "except for the expansion of certain citations in the footnotes." This review was first distributed as a paper at the Law in a Cynical Society Conference at the University of Manitoba in 1982.

5. See W. Christian, "George Grant and the Twilight of our Justice" (1978) 85 *Queen's Quarterly* 485.

6. *Supra*, note 2 at 106.

7. *ESJ*, at 17.

to by sensible men who recognize the state of nature, . . .”⁸ But if justice is based not on objective morality but on convenience, Grant asks, what is to protect the weak and helpless when the majority begins to regard them as inconvenient?

To explain why “decent legal justice” was maintained in those places where English speaking political liberalism was the accepted public philosophy, Grant points to the religious piety that continued among the population as a private matter. Indeed, for Grant, religious beliefs have not only been critical in sustaining English-speaking political orders, but in the development of their economies and technologies. The role of religion in modern history is a hallmark of Grant’s work as a whole, and *English Speaking Justice* is no exception. Some of Grant’s remarks in *English Speaking Justice* on the influence of Protestantism on English North America, technology and economic ordering are, however, rather sketchy, so some background remarks might be helpful.

A seminal work on the relationship between religion and economic development is Max Weber’s *Protestant Ethic and the Spirit of Capitalism*.⁹ In it, the great German sociologist rejects the Marxian approach to history, which holds that the economic substructure of a society determines its future. He argues that the rise of capitalism was a consequence, not just of economic conditions, but also of the religious faith of the people who first practiced it. The essence of early capitalism was not unmitigated greed. Western capitalism developed as strongly as it did, according to Weber, only because those early entrepreneurs who had worked extremely hard to make their money never stopped to spend it for their own comfort and enjoyment. Instead, they continually re-invested it. The early capitalists were basically ascetics; but unlike Roman Catholic monks, they were ascetics who threw themselves into secular callings instead of withdrawing from the world. The origin of their attitude towards their work and the world, their “spirit of capitalism”, was their faith in one or another of the ascetic Protestant sects which arose at the time of the Reformation. One group of religions of particular importance was the Calvinist—to which the Dutch Reformed Church, the English Presbyterians, and the American Puritans (Congregationalists) all belonged. By no accident, England, Holland and the United States are all highly developed capitalist societies.

Weber observed that the God of Calvinism was a far more wilful, mysterious and unapproachable deity than that of Roman Catholicism. An essential tenet of Calvinism was that God, in his infinite and inscrutable wisdom, elected at the beginning of time who should be saved and who shall be doomed to eternal death. Roman Catholicism, by contrast, held that a person could earn salvation by faith and good works. Calvinism saw no possibility of a mystical union with God during a person’s life. It distrusted ritual of any but the most austere sort. The only purpose of rites

8. *Ibid.*, at 18.

9. M. Weber. *The Protestant Ethic and the Spirit of Capitalism*, trans. T. Parsons, intro. A. Giddens (New York: Scribner, 1958) at 104. For a concise summary of Weber’s thesis, see K. Fullerton, “Calvinism and Capitalism” (1928) 21 *Harvard Theological Review* 163, reprinted in R. W. Green, ed., *Protestantism and Capitalism: The Weber Thesis and its Critics* (Boston: D.C. Heath, 1959).

were to glorify God. Roman Catholicism, by contrast, emphasized the possibility of a subjective feeling of grace, of the worshipper's knowing God's forgiveness and the assurance of eternal salvation. Calvinism allowed no intermediary to stand between a person and God; Roman Catholicism, by contrast, allowed priests to dispense absolution and reassure the believer of his fate in the life to come.

Since the Calvinist had no way of earning salvation, it was of vital importance to him to know whether he was one of God's arbitrarily chosen elect. Success in his secular calling was his only source of assurance. One's practical work in the world was not a means of satisfying one's desire for creature comforts, but a means of glorifying God and of proving one's membership in the elect. Application to one's calling was also a distraction from sensual temptations. Whereas the Catholic could obtain absolution for occasional waywardness, the Calvinist never had such consolation. He attempted to organize his life into a morally irreproachable whole. Whereas the Catholic tended to live from hand to mouth, to make as much money as he needed to get by and then relax, the Calvinist was likely to be undeviating in his pursuit of secular success. Distrustful of sensual pleasure, driven towards worldly success in order to prove himself to be among the elect, he organized his economic life around the rational and determined management of his economic enterprise.

Protestant asceticism, then, was the original "spirit" of Capitalism. Eventually, says Weber, capitalism became the dominant force in many Western countries. The material world it shaped still strongly influences people, even though capitalism no longer needs the support of religious faith. But the "idea of duty in one's calling prowls about in our lives like the ghost of dead religious beliefs."¹⁰ According to Weber,

Where the fulfillment of the calling cannot directly be related to the highest spiritual and cultural values, or when, on the other hand, it need not be felt simply as economic compulsion, the individual generally abandons the attempt to justify it all. In the field of its highest development, in the United States, the pursuit of wealth, stripped of its religious and ethical meaning, tends to become associated with purely mundane passions, which often actually give it the character of a sport.¹¹

Weber's thesis has provoked library shelves worth of historical and sociological research, some of it supportive of Weber's position, some of it critical.¹² Grant regards Weber's thesis as essentially correct,¹³ and its influence on Grant's historical essays is marked. There is no attempt in *English Speaking Justice* to present a detailed and comprehensive revision of Weber's argument; Grant quotes Henry James that there is a "sense, too strange or even simply too beautiful, for any ease of intellectual relation."¹⁴ But Grant does

10. Weber, *ibid.*, at 182.

11. *Ibid.*

12. The most convenient introduction to the literature is the collection by R.W. Green, *supra*, note 9. It contains excerpts from such major works as R.H. Tawney, *Religion and the Rise of Capitalism: A Historical Study* (Gloucester, Mass.: Harcourt, Brace and World, 1962), H.M. Robertson, *Aspects of the Rise of Economic Individualism* (Cambridge: Cambridge University Press, 1933), and E. Troeltsch, *The Social Teachings of the Christian Churches*, trans. O. Wyon (New York: MacMillan, 1950). Grant himself has recommended a study by a Torontonion, Woodhouse, *Milton, Puritanism and Liberty* (1935) 4 U. of T. Quarterly 483 as an introduction. See G. Grant, *Philosophy in the Mass Age* (New York: Hill and Wang, 1960) at 83-84.

13. G. Grant, "In Defense of North America" in *Technology and Empire* (Toronto: Anansi, 1969) at 20.

14. *ESJ*, at 58.

attempt to sketch some crucial aspects of the interactions among political liberalism, ascetic Protestantism and technology.

As far as politics go, "Calvinist individualism and the development of capitalism went hand in hand, and the contractualist political regime was a useful expression for both."¹⁵ The individualism Grant is referring to flowed from the emphasis that Calvinism placed on the direct relation between man and God. Unlike the Roman Catholic church, no priests stood between the solitary person and the Supreme Being. Calvinism produced, in Weber's words, "a feeling of unprecedented inner loneliness of the single individual."¹⁶ Calvinists thus tended towards democracy, rather than authoritarian hierarchy, in their religious and political ordering.¹⁷

Political liberalism, however, requires not just respect for democracy, but for individual liberty. A democratic majority is not necessarily a tolerant one. I would cite the political structures of Calvinist Geneva and the early Puritan communities in New England as examples of both democracy and enforced compliance with religious norms.¹⁸ Grant asserts that in England the Calvinists gained political ascendancy for a very short period of time (I assume he is referring to the Presbyterian domination of Parliament for a number of years during Cromwell's revolution) and because of their vulnerability "saw in the secularization of the state a means to their freedom against established religion."¹⁹ To Grant's comment it might be added that the struggle and eventual truce among different Christian sects in England produced many of our most fundamental rights and liberties. The indomitable John Lilliburne, a "Leveller," established the right against self-incrimination, for example, in the course of being prosecuted for his religious and political expressions first by the Church of England, then by the Presbyterian faction of Parliament, and finally by Cromwell's Council.²⁰

15. *Ibid.*, at 59.

16. Weber, *supra*, note 9 at 104.

17. Another connection that Grant makes between Calvinism and political liberalism is that "... one can say that the extraordinary compact between God and man in Calvinism strangely prepares people for contractual human relations." *ESJ* at 59. For an explanation of the Calvinist doctrine of the covenant of grace between man and God, see J.D. Eusden, "Natural Law and Covenant Theology in New England, 1610-1670" (1960) 5 *Natural Law Forum* 1. At p. 6 Eusden observes that "... the covenant of grace did not mean a contract or a compact in which men and God were bound together, each being required by the terms to do something for the other. There was no quid pro quo. The emphasis was squarely on God's initiative and love in proclaiming that 'I will be their God, and they shall be my people.' (Jeremiah 31:33, Hebrews 8:10)." Thus the relationship between Calvinist "covenant theology" and the social contract theory is remote, if not non-existent. See C. Rossiter, *The Political Thought of the American Revolution* (New York: Harcourt, Brace & World, 1963), at 151-169, for some comment on the varied origins of the contractarian ideology of the American revolution.

18. As for Geneva, see J.T. McNeill, *The History and Character of Calvinism* (New York: Oxford University Press, 1967) at 178-201. On Puritan New England see W.E. Nelson, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society 1760-1830* (Cambridge, Mass.: Harvard University Press, 1975). In *Protestantism and Progress*, trans. W. Montgomery (Boston: Beacon Press, 1958), Ernest Troeltsch writes at pp. 121-122: "The Calvinistic Puritan States of North America were, it is true, democratic, but, so far from recognizing liberty of conscience, they explicitly rejected it as implying a godless skepticism. Liberty of conscience obtained only in Rhode Island, and this State was Baptist, and was therefore hated by all the neighbour states as a hotbed of anarchy. Its great organizer, Roger Williams, actually went over to Baptist beliefs, and thence passed to an undogmatic Spiritualism. And the second home of liberty of conscience in North America, the Quaker State of Pennsylvania, was also of Baptist and Spiritualist origin. In other places where the claim to toleration and liberty of conscience is found, it has political and utilitarian motives—in the end, indeed, the merchants of the Massachusetts theocracy yielded to this indifferentism. The parent of the 'rights of man' was therefore not actual Church Protestantism, but the Sectarianism and Spiritualism which it hated and drove forth into the New World."

19. *ESJ*, at 59.

20. The tale is stirringly told in Leonard W. Levy's Pulitzer Prize winning *Origins of the Fifth Amendment: The Right Against Self-Incrimination* (New York: Oxford University Press, 1968).

For England, "political liberty is the residuary legatee of ecclesiastic animosities."²¹

"Less obviously," claims Grant, "there was an intimate relation between the development of modern positive science and the positivist account of revelation in Calvinism."²² Grant does not elaborate except to recommend in a footnote a series of articles by M.B. Foster in *Mind*. As a few readers would dissent from the "less obviously"; I will try to convey the gist of Foster's argument.²³ It will be recalled that classical Greek philosophy taught that there is in the nature of things an ideal of human virtūe discoverable through philosophy. The doctrine that there is an essential nature to human beings was a special case of the general doctrine that every sensible object has an eternal ideal form, an "intelligible essence." The sensible characteristics of the entity are somewhat distorted representations of its essence, just as the pencil drawing of a triangle is always an imperfect portrayal of that triangle as it is mathematically defined. A tangible, visible, audible horse, for example, is merely an imperfect representation of an ideal horse; it is the ideal horse that is ultimately real. The physical horse is merely a particular image of that ideal form, distorted because it is shaped in the corrupting stuff of the material world. The philosophical theory of intelligible essences was partly derived from ancient Greek religious conceptions. Primitive Greek paganism, for example, understood material objects as the appearances of divine beings. Under ancient Greek belief, then, the activity of science was primarily an attempt to understand and classify the intelligible essences of various objects. Contemplation was considered more important to the study of nature than empirical investigation.

But under pure Christian creationism, the universe is the product of an Act of God which is "voluntary," that is, to some extent unconstrained by reason. Things are what they are partly because God arbitrarily chose to make them that way. The sensible characteristics of an object are evidence of what it "really" is, not just aids to the reasoned appreciation of the intelligible essence of an object. The creationist doctrine is consistent with the relatively open-minded experimentalism of early modern science, whereby empirical investigation was assumed to be basic to developing man's understanding of nature.

There you have the heart of Foster's argument. But why might there be a special connection between the childhood of modern science and Calvinism, as opposing to other forms of Christianity? Grant adopts the following answer. Roman Catholic doctrine, notably the teachings of Thomas Aquinas, "strangely put together"²⁴ the ancient Greek account of nature and Christian creationism: Protestant theologians, by contrast, were more complete in their rejection of the intelligible essence doctrine. They stressed that God could only be understood through a special emphasis on the

21. Figgis, *Political Thought from Gerson to Grotius* (Cambridge: The University Press, 1907).

22. *ESJ*, at 59.

23. I shall chiefly draw upon "The Christian Doctrine of Creation and the Rise of Modern Nature Science" (1934) 43 *Mind* 446. The other articles by Foster are "Christian Theology and Modern Science of Nature", (1935) 44 *Mind* 439, and (1936) 45 *Mind* 1. See also H. Jonas, "Judaism, Christianity and the Western Tradition" (1967) 44 *Commentary* 61.

24. *Supra*, note 13 at 20-22.

transcendental nature of God and the primacy of his inscrutable will. (Recall the Calvinist doctrine of predestination, whereby God mysteriously chooses who shall be saved and who damned, and nothing done by man on earth can change who numbers among the elect.) According to Grant, early experimental science found a congenial theological atmosphere in Reformation England.

Now we may return to Grant's question of how "decent legal justice" was preserved if political liberalism was based on calculations of convenience. That is:

To put the ethical relation clearly: avoidance of violent death is our highest end (albeit negative), why should anyone make sacrifices for the common good which entail that possibility? Why should anyone choose to be a soldier or policeman, if Lockian contractualism is the truth about justice?²⁵

The answer, according to Grant, is that for England and the United States

The believing Protestants provided that necessary moral cement which could not be present for those who were consistently directed by contractualism or utilitarianism or a combination of both. This fundamental political vacuum at the heart of contractual liberalism was hidden for generations by the widespread acceptance of Protestantism. At one and the same time believing Protestants were likely to back their constitutional regimes; yet they backed them without believing that the avoidance of violent death was the highest good, or that justice was to be chosen simply as the most convenient contract.²⁶

In both England and the United States, claims Grant, the combination of technology, political liberalism, Calvinist drive and private religious faith was a practical success. In England, the victory of the Whigs in the Glorious Revolution of 1688 and their subsequent consolidation of power provided, in the form of personal and commercial liberty, the background for the development of England as a commercial maritime and industrial power. Persons who entered the expanding middle classes had reason, therefore, to be loyal to the fundamental political framework, and little provocation to reconsider its basic assumptions. "In that bourgeois dominance the notes of comfort, utility and mastery could alone ring fully in the public realm."²⁷ English philosophers after Hobbes and Locke did little more than work out the details of variations of utilitarianism and contractarianism. So parochial did English-speaking public philosophy become that its chief distinction is between "liberals" and "conservatives," with Edmund Burke being taken as the chief historical exponent of the latter. Actually, argues Grant, Burke was "... in practice a Rockingham Whig, and did not depart from Locke in fundamental matters, except to surround his liberalism with a touch of romanticism."²⁸ Such figures as Swift and Johnson and Coleridge, who "... attempted ... to think of politics outside the contractarian or utilitarian contexts, were simply taken as oddities dominated by nostalgia for a dying Anglicanism, and having no significance for the practical world."²⁹

The practical success of political liberalism discouraged English political philosophers from undertaking any radical reconsideration of basic

25. *ESJ*, at 61.

26. *ESJ*, at 62.

27. *Ibid.*, at 49.

28. *Ibid.*

29. *Ibid.*, at 50.

assumptions and so insulated England from the extremities of European political ideology. "This was for good because the pursuit of comfortable self-preservation, though not the highest end, is certainly more decent and moderate than the extremities of communism or national socialism. There are worse things than a nation of shopkeepers."³⁰ But the lack of tradition of theoretical reflection is also bad, says Grant, because it leaves English-speaking intellectuals unequipped to deal with the basic moral problems presented by the modern world—the decline of religious faith which hitherto sustained political liberalism.

Grant's vantage point as a Canadian conservative on the edge of the American dynamo has helped make his interpretation of North American history distinctive and powerful. In *English Speaking Justice* he marks some of the special features of the American developments in technology, religion and politics. For one, the absence of a remnant of an aristocratic class in America and the lack of any tradition from before the Age of Progress nourished a "... flowering of the contractual principle in its purest form."³¹ Moreover, political contractualism was a suitable public philosophy for a republic which absorbed waves of non-English immigrants:

Issues in the political realm could be decided in terms of the contracted constitutional rights of individuals, while the denser loyalties of existence were left supposedly untouched within pluralism ... American nationalism, with effective sense of righteous destiny, has had to be explicitly affirmed so as to provide for the conception of the common good a substance which transcended the simply contractual.³²

Even more so than in the case of England, the domestic and foreign successes of the United States, "... as the great capitalist empire ..."³³ enured its public order from serious challenge.

American Protestantism, writes Grant:

... was of a more unflinching, more immoderate and less thoughtful sort than in England. ... This rougher Protestantism was more suited to the violent situation of conquering a new continent. ... Indeed, the Puritan interpretation of the Bible produced more a driving will to righteousness than a hunger and a thirst for it. ... Nevertheless, even in the immoderation—indeed the ferocity—which has been so manifest in American history, that Protestantism gave a firmer and more unyielding account of justice to its country's constitutionalism than would have been forthcoming from any simply contractual account.³⁴

In an earlier essay, "In Defense of North America," Grant gives the theological tradition of Calvinism as the direct contributing factor to the pragmatic, non-contemplative nature of American philosophy:

... [T]he Calvinists claimed to be freeing theology from all but its biblical roots and cut themselves off from pure contemplation more than any other form of European theology—Catholic or Jewish, Lutheran or even Anglican. ... Thus being in our origins this form of Protestant, thrown into the exigencies of the new continent, we did not partake of the tradition of European contemplation.³⁵

30. *Ibid.*, at 51.

31. *Ibid.*, at 57.

32. *Ibid.*, at 56.

33. *Ibid.*, at 57.

34. *Ibid.*, at 61.

35. *Supra*, note 13 at 35-36.

In *English Speaking Justice* Grant recounts how the forces which Protestantism supported ultimately undermined it. The objective discoveries of science undermined religious faith. For many middle class Protestants, Darwin's theory of evolution was decisive. "The apprehension that human beings are the product of a mindless process of natural selection, distinguished from the lower forms of life only by degree and not by kind, subverted the idea of their being special entities created by and capable of relating to God."³⁶ As belief in God faded away, Protestants tended to attribute some of God's power to themselves. To Grant, the "... primal western affirmation which stands shaping our whole civilization..." can roughly be described as "... the affirmation of human beings as 'will',..."³⁷ Those influenced by it tended to understand human freedom as autonomy—unconstrained ability to choose and create.

An intellectual example from Europe is the fact that thinkers such as Rousseau and Sartre, who were such formulators of human beings as freedom, were both impregnated with Calvinism in their origins. A more important and immediate example is the sheer conflict of competing wills which has characterized the history of American contractualism. 'Winning isn't everything: it's all there is.'³⁸

But once "Protestants accepted the liberalism of autonomous will, they became unable to provide their societies with the public sustenance of uncalculated justice which the contractual account of justice could not provide from itself."³⁹

Grant views Kant's work as an ambitious attempt to reconcile the contradictions of modernity. The "Great Delayer" seemed to provide a philosophy which could at once accommodate the successes of natural sciences, allow for human free will, and accept an objective basis for morality. Kant taught that one part of the human person, his physical being, is part of the phenomenological world, ruled by deterministic laws, but that the other part, "the noumenal self," the secular equivalent of the soul, is able to will freely. Humans beings, by virtue of their rationality, can understand the universal moral law, and achieve the only moral good possible by freely willing in accordance with it. This universal law, the "categorical imperative," in one form requires that all persons be treated as ends, and not means. Grant interprets Kant as making political freedom central to his public philosophy on the grounds that without freedom from coercion, good acts, which can only be good if they are willed freely, are not possible. On the tenability of this attempted reconciliation, Grant writes:

Nietzsche's writings may be singled out as a Rubicon, because more than a hundred years ago he laid down with incomparable lucidity that which is now publicly open: what is given about the whole in technological science cannot be thought together with what is given us concerning justice and truth, reverence and beauty, from our tradition. He does not turn his ridicule primarily against what has been handed to us in Christian revelation and ancient philosophy. what was given there has simply been killed as given, and all that we need to understand is why it was once thought alive. His greatest ridicule is reserved for those who

36.

37. *Ibid.*, at 63-64.38. *Ibid.*, at 64.39. *Ibid.*, at 65.

want to maintain a content to "justice" and "truth" and "goodness" out of the corpse that they helped to make a corpse. These are the intellectual democrats who adopt modern thought while picking and choosing among the ethical "norms" from a dead past. Justice as equality and fairness is that bit of Christian instinct which survives the death of God. As he puts it: "The masses blink and say: 'We are all equal—Man is but man, before God—we are all equal.' Before God! But now this God has died."⁴⁰

Grant sounds the metaphysical foundations of contemporary liberalism by examining Rawls' *Theory of Justice*. It is, after all, an extended theory about justice, "... clearly within contemporary liberal assumptions, ..." and sent forth from Harvard, a university whose ends have "... more and more seemed to be the stamping of liberal ideology on the articulate classes of that (American) empire."⁴² Contractualism is said to hold forth the possibility of justice to the individual despite the demands of general convenience, and thus to offer, far more so than the utilitarian branch of liberalism, the hope for an adequate theory of justice at a time when "... the rights of individuals are assailed by progressive corporate power, acting under the banner of technological necessities."⁴³ Rawls is classified by Grant as operating within the constraints of 20th century analytic philosophy, a movement which is understood as emphasizing logical rigour and clarity in argument, adopting the face-value distinction and avoiding metaphysical speculation.

Thus the principles of Rawlsian justice are derived by determining what free and equal individuals in a hypothetical "original position" would agree upon as the regime to govern a society in which they are going to live, given that when they make their selection they do not know what their own special circumstances, such as possession of natural talents and abilities, are going to be. The individuals behind the "veil of ignorance" are assumed to have no aims other than to protect their own interests. Thus they would unanimously reach an accord to adopt Rawls' two principles, which specify how the "primary goods" of a society should be distributed: in a basically egalitarian way. Inequalities are permitted only to the extent that they benefit the least advantaged members of the society. These goods are those which every rational man is presumed to want regardless of what his particular aims turn out to be; they include rights, liberties, powers and opportunities, income, wealth and self-respect.

Rawls makes no commitment to the classical conception of there being a knowable purpose to human life, of justice as being "what human beings are fitted for." As Grant interprets Rawls, "misguided" citizens are free to believe otherwise, or hold any philosophical or religious assumptions they wish, so long as they do not interfere with the equal liberties of other citizens. Whereas Kant based his liberal state on egalitarian moral absolutism—the potential of every citizen, no matter what his circumstances, to freely will that the moral law be vindicated—Rawls can make no such affirmation about the supreme good, and bases his morally neutral state

40. *Ibid.*, at 77.

41. *Ibid.*, at 13.

42. *Ibid.*

43. *Ibid.*, at 14.

upon skepticism.⁴⁴ Grant adds that perhaps the fate of Kant's doctrine on this matter may be taken to illustrate the fate of inadequate teachings.⁴⁵

Grant also contrasts Rawls with his avowed contractualist predecessor Locke, in that Locke indulged in the "naturalistic fallacy" by basing his theory of justice on the way things are in the state of nature—namely, so likely to result in violent death that humans establish civil government and abide by its rules as a preferable alternative. Thus moral prescriptions are derived from the way things are, "oughts" are derived from "is's." By contrast, the principles of Rawls' regime are derived solely from—"cozy pleasures"—calculations about certain human interests which are taken as self-evidently everyone's interests.⁴⁶

Grant adds:

Sometimes in the reading of this long and complex book it may seem that we are being asked to play the old shell game. When we look for the bean of justice under the shell of self-interest, it has moved under the shell of altruism, and vice versa. Nevertheless when we are really able to pay attention to the mover's hands, we find that the bean is always under one shell—the shell of self-interest.⁴⁷

Having reviewed the origins of modernity, Grant attempts to warn of its dangers. Technology, which liberalism helped nurture, now threatens to combine with the demands of convenience to undermine the decency of the *English Speaking Justice* of tradition. If justice is based on calculations of convenience, and not on an inspiration of moral excellence to which human beings are by their nature suited, why should it inhibit the progress of the strong? Why should it stand in the way of the development of technocratic control over nature and society in order to secure for themselves more and more primary goods? Grant's warning is grim. There will be excluded from Liberal Justice:

... those who are too weak to enforce contracts—the imprisoned, the mentally unstable, the unborn, the aged, the defeated and sometimes even the morally unconforming. The price for large scale equality under the direction of the "creative" will be injustice for the very weak.⁴⁸

For Grant, the relaxation of governmental restrictions on abortion is a portend of the time of darkness to come. He examines in particular the majority judgment of the United States Court in *Roe v. Wade*,⁴⁹ which held that the state could not forbid abortions during the first six months of pregnancy. The majority opinion of Justice Blackmun expresses all the standard assumptions of contractual liberalism. The conflict is portrayed as one between a legislature which is attempting to impose its arbitrary conception of the good and a person asserting her personal rights. But for Grant, the case is not only an abject demonstration of justice buckling under the demands of convenience, but an exposure of the inadequacy of liberal ontology, its philosophy of being. For as Grant interprets the judgment, it

44. *Supra*, note 10 at 98.

45. *Ibid.*, at 98, note 10.

46. *Ibid.*, at 46.

47. *Ibid.*, at 43.

48. *Ibid.*, at 83-84.

49. 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147.

holds that a foetus is not a "person," and so not a subject for legitimate concern in the litigation.

In adjudicating for the right of the mother to choose whether another member of her species lives or dies, the judge is required to make an ontological distinction between members of the same species. . . . By calling the distinction ontological I mean simply that the knowledge which the judge has about mothers and fetuses is not scientific. . . . But once ontological affirmation is made the basis for denying the most elementary right of traditional justice to members of our species, ontological questioning cannot be silenced at this point. Because such a distinction between members of the same species has been made, the decision unavoidably opens up the whole question of what our species is. What is it about any members of our species which makes the liberal rights of justice their due?⁵⁰

Grant acknowledges there is an ". . . undoubtable core of truth which has come out of technology, . . ."⁵¹ the great theoretical achievements of quantum physics, the biology of evolutionism and modern logic.⁵² These ". . . cry out to be thought in harmony with the conception of justice as what we are fitted for."⁵³ The reconciliation of the modern quantum of objectivity by science with the ancient conception of objective morality is an urgent theoretical task. Grant despairs that it will be achieved by contemporary philosophy which amounts to ". . . little more than analytical competence."⁵⁴ The English speaking people have a valuable tradition of practical justice; but their ". . . lack of tradition of thought is one reason why it is unlikely that the transcendence of justice over technology will be lived among the English speaking people."⁵⁵

II. Grant's Approach to History

Grant's presentation in *English Speaking Justice* of the interconnections among liberalism, religion and technology are so sweeping and undocumented that it is stimulating and suggestive rather than persuasive. An exposure to Grant's writing may encourage Canadian legal scholars to examine the religious influences on our legal history, a perspective which is often forgotten. Many American academics have of late tended to explain the history of the law in terms of underlying economic forces. On the left,⁵⁶ we are treated to explanations of doctrinal developments in terms of class interests; on the right, in terms of the "invisible hand."⁵⁷ But economic determinism is no less incomplete as a historical approach, and no less so when applied to Canada than when it is applied to the United States. Thus

50. *ESJ*, at 71.

51. *Ibid.*, at 87.

52. *Ibid.*, at 86.

53. *Ibid.*, at 87.

54. *Ibid.*, at 89.

55. *Ibid.*

56. See for example, M. Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge, Mass.: Harvard University Press, 1977).

57. See P. Rubin, "Why is the Common Law Efficient?" (1977) 6 *Journal of Legal Studies* 51; G.L. Priest, "The Common Law and the Selection of Efficient Rules" (1977) *Journal of Legal Studies* 65 at 69; *ibid.*, at 69 and J. C. Goochman, "An Economic Theory of the Evolution of Law" (1978) *Journal of Legal Studies* 393. William Nelson's American legal history is, by welcome contrast, highly attentive to religious and ideological factors. See for example Americanization of the Common Law, *supra*, note 18; "The Impact of the Antislavery Movement Upon Styles of Judicial Reasoning in Nineteenth Century America" (1974) 87 *Harvard Law Review* 513. For a sociologist's fairly idealistic criticism of the "sociological realism" of a legal scholar see Joseph R. Gusfield, "Power, Justice and Sociological Cynicism" (1977) 29 *Stanford Law Review* 370.

no one could justifiably expect to have an informed appreciation of the background of the landmark civil liberties cases⁵⁸ decided by the Supreme Court of Canada in the 1950's without acquiring an understanding of the influence of the Roman Catholic church on Quebecers. Pierre Trudeau's "Some Obstacles to Democracy in Quebec"⁵⁹ is one interesting examination of the Church's antipathy to democratic processes and religious intolerance. It would be additionally edifying, to be sure, to examine the economic circumstances of Quebec at that time; such a study would even help to explain the persistence of certain religious beliefs. But no explanatory power would be added by ignoring the existence of religious beliefs altogether; or to overlook the effect those beliefs had on economic developments; or in casting those beliefs, as the Marxians do, as a surface phenomenon "ultimately" produced by the underlying economic structure. The *Alberta Press*⁶⁰ case also had an important religious aspect to it. The Premier of Alberta, under whose auspices the legislation was passed, had the political eponym of "Bible Bill" Eberhart. He rose to power by introducing the Social Credit theory of Major Douglas with the fundamentalist preaching of his Sunday morning radio broadcasts. To be sure, his support initially came from the financially pressed farmers of Alberta, his opposition from professionals and businessmen, so that the economic circumstances of his time were an influence on his political success. But so was the fundamentalist faith which many immigrants to Alberta carried with them from their countries of origin.⁶¹ *English Speaking Justice*, then, is a valuable reminder of the importance of religious faith in the development of English speaking law and politics.

III. Grant's Critique of the Content of Liberal Theory

Grant's critique of the theoretical content of liberalism is at times excessively cynical. To begin with, there is the issue of the role of altruism in liberal theory. It is certainly possible to interpret Hobbes as seeing his liberal Leviathan as fuelled almost entirely on a low form of self-interest. People agree to set up a central government, says Locke, in order to better protect their pursuit of commodious self-preservation. But Locke begins with the assumption that in the state of nature all men are morally equal and have rights which all should respect. They recognize that they are bad judges in their own causes, however, and set up a civil government to impartially adjudicate and enforce those rights. Thus by setting up a civil government, men are only protecting the moral entitlements which they have by the law of nature. The starting point of Lockean theory is not, as Grant would have it, the equality of men in their fear of death and desire for material comfort.⁶²

58. Such as *Saumur v. City of Quebec and A.G. Quebec* (1953), [1953] 2 S.C.R. 299, 4 D.L.R. 641, 106 C.C.C. 289; *Switzman v. Elbling and A.G. Quebec* (1957), [1957] S.C.R. 285, 7 D.L.R. (2d) 337, 117 C.C.C. 129.

59. P. Trudeau, *Federalism and the French Canadians* (Toronto: Macmillan, 1968) at 103-123.

60. *Reference Re Alberta Statutes* (1938), [1938] S.C.R. 100, 2 D.L.R. 81.

61. See H.B. Neatby, *The Politics of Chaos: Canada in the Thirties* (Toronto: Macmillan, 1972).

62. Grant's interpretation of Locke as basing his theory on the desire for self-preservation and including some disingenuous references to the will of God and natural law in order to make his message more palatable to his audience seems to be derived from the works of the American philosopher of ideas, Leo Strauss; see Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953).

Grant's charge that Rawls' *Theory of Justice* is a shell game, in which the bean of justice turns out to be under the shell of self-interest, is inaccurate. It is true that each person in the original position is concerned only with his own self-interest (and that of one member of the next generation) and it is misleading and pretentious of Rawls to attempt to ascribe any extra nobility to original positioners by comparing them with Kantian "noumenal selves" who are acting "autonomously."⁶³ By "noumenal self" Kant meant that part of the human person which can will freely (in other words, a secular soul), and by "autonomously" Kant meant independent of contingent and particular circumstances, such as a person's self interest. Each person in Rawls' original position is acting "heteronomously"—he is attempting to secure the best conditions possible for securing *his own* goals, whatever they turn out to be. But Rawls does not suppose that persons *in ordinary life* should be motivated solely by self-interest. They are morally required to act according to a theory of justice based on equal respect for all persons. In order to give a more specific content to this moral injunction, persons in ordinary life ask what theory of justice would have been chosen by free and equal moral persons who are not aware of what their particular attributes will be. In other words, the original position is a thought experiment used by persons in ordinary life in order to help them better observe the rights of others.

In section 86 of *Theory of Justice*, Rawls does argue that acting justly is congruent with a person's own good. Some of these arguments are indeed of the form "acting justly helps you to live a satisfying life." But other reasons are practically tautologies, whereby Rawls argues that, as a moral person, one wants to act morally, so that by acting morally one gets what one wants. Thus he argues that acting justly is something a person "wants" to do in order to realize his true nature as a free and rational being. And he goes so far as to say:

As we have seen, a just person is not prepared to do certain things, and so in the face of evil circumstances he may decide to chance death rather than to act unjustly. Yet although it is true enough that for the sake of justice a man may lose his life where another would live to a later day, the just man does what all things considered he most wants; in this sense he is not defeated by ill fortune the possibility of which he foresaw.⁶⁴

Rawls may be thoroughly unpersuasive in his attempt to explain why it is that a person must sacrifice himself for the sake of justice; but he clearly does prescribe that a person in ordinary life must respect the rights of others, even at cost to himself, sometimes even at the cost of himself. (Cf. Hobbes, who denies that a person could validly contract out of his right to life. For Hobbes, while the state might be justified in sentencing a murderer to death, the murderer would not be unjustified in resisting capital punishment.⁶⁵)

In *The Brothers Karamazov*, Ivan says, "If there is no God, then everything is permissible." The absence of an objective basis for morality is not ultimately founded in reason, in choosing altruism over selfishness a person

63. See J. Rawls, *A Theory of Justice* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1971) s. 40 at 255.

64. *Ibid.*, s. 86 at 573.

65. T. Hobbes, *Leviathan*, (Oxford: Blackwell, 1946).

is not acting irrationally. A humanistic respect and compassion for one's fellow beings, while neither rational nor irrational, might be the basis of one's acceptance of political liberalism and a humanist need to act simply on the basis of *ad hoc* emotional response. He can attempt to gather factual information and to systemize his values; to search for inconsistencies and prejudices, to find interconnections among his moral intuitions, to elaborate a conceptual framework with which to better understand, discuss and resolve problems. Many lawyers and judges who do not believe in or rely on objective sources of moral values have done admirable jobs of arguing and deciding cases in which it was clearly necessary to weigh competing moral and political values.

Some contemporary legal academics despair that we lack an objective or shared system of values for making decisions. Many of them seem to regard consensus and certainty as intrinsically good. I do not see that this is so. We all realize that there are yet no objective, shared standards of musical aesthetics: composers have not on this account closed down production, instead, they have provided us with an exhilarating variety of works to enjoy in which we may immerse ourselves. One of the consequences of the absence of an objective or shared system of morality is that there is more room for creativity and experimentation in law and politics. For some of us lawyers, the prospect of having to debate, choose and innovate is not a totally unhappy one. (I hasten to add that my music-politics analogy should not be pushed too far. Bad music has never caused the torture and murder of millions of human beings.)

Ivan Karamazov's "everything is permissible" may be interpreted as meaning that without the threat of God's punishment for wrong-doing, people will inevitably behave badly. That is, the hope of God's favour or the fear of his vengeance balances the equation between a person's own good and his doing right. One need not look to atheists for a refutation that just human behaviour is not empirically possible without the threat of God's punishment. For millenia the Jewish people had a humane system of legal justice based on interpretations of the Old Testament, even though they had no promise from God of reward in their own lifetime or in an afterlife. (In an endnote in *English Speaking Justice*, Grant mentions the contribution Jews have made to contractual liberalism, and attributes this in part to the strength they drew from their own religious and national traditions.⁶⁶)

If a just society based on popular acceptance of secular humanism is not possible, is it unlikely to ever exist? Rawls hypothesizes a principle of psychology which will help to ensure the success of his state.⁶⁷ According to this principle, people naturally reciprocate the love and respect which is bestowed upon them by others. A child growing up in Rawls' ideal state would thus develop affectionate relationships with family, friends and associates. The mature individual comes to realize that the principles of justice (namely Rawls') on which the state is based prescribe the maintenance of liberty, physical security and material welfare for himself and those he cares

66. *ESJ* at 101, endnote 21.

67. *Supra*, note 63 at ss 70-72.

for. Seeing himself as the beneficiary of the principles of good will, the person reciprocates, and develops a strong affection for the principles. Thus the person becomes prepared to sacrifice his interests, even his life, for the benefit of his beloved principles of Rawlsian justice. Rawls' "psychology" is not backed up by much scientific research, however, and is hardly so commonsensical as to be persuasive in the absence of this research. .

Looking at the practical record, it may be said that most secular humanist societies have managed to maintain decent systems of justice. According the sociological surveys,⁶⁸ the populations of many Protestant Western European countries, including England, consist mostly of persons who pay little attention to the ritual and theology of Christianity. Yet the post-war record on human rights in Western Europe has been, on the whole, rather admirable. In the United States, commitment to the traditional religious faith seems to have held up more strongly. But it has been under the banner of political liberalism (whatever the original source of moral concern) that American courts and legislatures have in the past decade significantly advanced the interest of some of the least powerful segments of society. The federal courts have, in the name of upholding the Eighth Amendment's prohibition on cruel and unusual punishment, ordered improvements in the conditions of prison inmates.⁶⁹ Congressional legislation has secured better access for the handicapped to education, recreational and transportation facilities.⁷⁰ But the record is not without darker incidents. A fragment of Grant's nightmare is provided by the *Becker* case.⁷¹ The parents of an 11-year-old retarded boy refused to allow doctors to perform an operation to save him from a slow and painful death from a cardiac disease. Their lawyers called a physician to testify that the boy's life was "without dignity." Two California courts upheld the parents' claim to have discretion to refuse surgery, although the judicial reasoning is ostensibly that because of the risks of surgery, the parents' judgement was not demonstrably unreasonable.⁷² I will refrain in this review from making any

68. See R. W. Bibby, "Religion" in Hagedorn, ed., *Sociology* (Toronto: Holt, Rinehart and Winston, 1980) 387 at 422.

69. R. Singer, "Bringing the Constitution to Prison: Substantive Due Process and the Eighth Amendment" (1970) 39 *Cincinnati L. Rev.* 650.

70. See *Education for All Handicapped Children Act*, 20 U.S.C.S. s. 1401 et seq., *Rehabilitation Act of 1973*, 29 U.S.C.S. 794.

71. In *Re Phillip B.* (1979), App. 156 Cal Rptr. 48 (Ct. App.). In a later action however, guardianship of the boy was awarded to a couple who had for five years been bringing him from an institution to stay at their home on weekends. "In an intensively personal and emotional decision, Judge William Hernandez declared that the boy, Phillip Becker, had the right to 'secure a live worth living.'" S. Herhold, The [Hartford] Courant, (9 August 1982). In authorizing a state institution to arrange for reconstructive surgery for a severely retarded adult patient, Judge Sidney H. Asch said: "There is a strident cry in America to terminate the lives of other people - deemed mentally or physically defective. . . . Assuredly, one test of civilization is its concern with the survival of the 'unfittest'; a reversal of Darwin's formulation." In *Re Weberlist* (1974), 360 N.Y.S. (2d) 783 at 787 (Sup. Ct.).

72. Since Grant sees *Roe v. Wade* as a warning of liberal indifference to the rights of the weak and "inconvenient", some comment should be made before concluding this review. (No attempt will be made here to defend the opinion of Blackmun J. itself; it is almost totally lacking in intelligible moral and legal reasoning.) First of all, the strength of the anti-abortion movement in the United States—among its other achievements, it has succeeded in having federal medical aid denied to women who have obtained abortions for reasons other than safeguarding their own life or physical well-being—shows that concern there for the rights of the unborn is still strong. That the anti-abortion movement is spearheaded by persons whose Roman Catholic, fundamentalist Protestant or Orthodox Jewish beliefs do not condone non-therapeutic abortions indicates that public activism based on private religious belief is still a powerful factor in American politics. Finally, it is important to recognize that those humanistic liberals who favour legalizing abortion are not necessarily lacking genuine concern for the unborn. It is unfortunately true that much pro-legalization rhetoric denies any importance at all to the unborn on the grounds that they are "not persons" or incapable of independent existence. But a plausible argument in favour of legalized abortion might run as follows:

In their early stages of development the unborn are not as intellectually developed as children or adults in number of fundamental respects. They are conscious, if at all, only dimly. They have no plans for the future, and probably

predictions of my own about the future of *English Speaking Justice* in secular humanist societies. But I will attempt to show that some of Grant's reasons for pessimism are not well founded, in that they rest on mistaken apprehensions of the content of liberal political theory.

Grant is often unfair in portraying liberal political theory as making an apotheosis of the bourgeois lifestyle. But if there is a central idea in contemporary liberalism, it is that everyone should be free to determine his own ends in life. The liberal state is supposed to provide physical security, liberty and some material welfare in order that persons be better able to pursue those self-determined ends. Rawls' "primary goods" are conceived along these lines; they are means allotted people who use them in accordance with their own decision about what a meaningful end in life would be. Some people may be content with enjoying material luxury, but others may use their primary goods to enable them to lead a life of religious meditation or artistic creation or scientific research or charitable good works or whatever aim they choose.

At times Grant acknowledges that many branches of liberal theory put no premium on material comfort as an end in itself. But his other writing makes clear his pessimism about the ability of people to find meaning in their private lives—especially in view of the distinction liberal theory draws between private life and the business of the state. In *English Speaking Justice* Grant writes, "A. N. Whitehead's shallow dictum that religion is what we do with our solitude aptly expresses that modern separation. It is a destructive half-truth because it makes our solitude narcissistic, and blunts our cutting edge in public justice."⁷³ The thought is expressed more fully in Grant's earlier essay, "Religion and the State":

How can we escape the fact that the necessary end product of the religion of progress is not hope, but a society of existentialists who know themselves in their own self-consciousness, but know the world entirely as despair? In other words, when the religion of progress becomes the public religion we cannot look forward to a vital religious pluralism, but to a monism of meaninglessness. And what becomes of the constitutional state in a society where more and more persons face their own existing as meaningless? Surely the basic problem of our society is the problem of individuals finding meaning to their existence. The most important cause of the psycho-pathological phenomena, which are becoming terrifyingly widespread at all echelons in North America, is just that human beings can find no meaning to their existence.⁷⁴

no memories of the past. Thus they may not necessarily be entitled to the same protection that the legal system extends to "persons." But as potential persons, and already living human beings, it seems incompatible with a liberal and humanistic respect for human kind not to regard the unborn as morally valuable and worthy of respect. Exactly how valuable and how worthy, liberal theories—as Grant correctly charges—generally do not say. Against the value of the foetus must be weighed the claim of the mother to live her life as she chooses. Again, liberal theory provides no precise answers on how to strike this balance. A difficult moral judgement must be made. And this raises a critical consideration. That is the claim of the woman, as a responsible moral being, to make that decision herself. It is she who best knows the effect of continued pregnancy on her own life. It may be deeply intrusive of her privacy and offensive to her dignity to require her, as does Canadian law at present, to obtain the permission of third parties before she can carry through her decision to terminate the pregnancy. In legalizing abortion, a state is not necessarily saying that the lives of foetuses are to be lightly regarded. It may only be saying that the state will trust the moral integrity of the adult person who has the greatest stake in and best information about a profoundly difficult moral decision.

While this argument is questionable in several respects (e.g. is the mother too much an interested party to be trusted to give due respect to the rights of the foetus?) it is not a morally insensitive one, and I suspect that it and its variants are fairly commonly held by those in favour of legalized abortion.

73. *ESJ*, at 85.

74. G. Grant, "Religion and the State" in *Technology and Empire* (Toronto: Anansi, 1969) 43 at 58.

There can be little doubt that many people in contemporary society are unable to find any purpose to their lives. Tom Wolfe has written a famous essay describing the 1970's as the "me decade";⁷⁵ consistently with Grant's warning, it describes the self-obsessed search of affluent Americans for something that will give them a sense of worth and value. Elliot Rosen's *Psychobabble*, describing much the same period, examines a variety of infantile religious and psychological cults to which people have turned: scientology, rolfing, est, etc. But Grant's pessimism about whether an affluent and free liberal society would produce much more than anguished existentialists is based on a one-sided and dismal view of the use people do in fact make of their freedom. There certainly are a lot of people who cannot find for themselves a role in life. A lot of them would be happier if the economic circumstances dictated their way of life. But there also are a great many people who take advantage of the freedom and prosperity of liberal societies and find a sense of fulfillment in their lives that they would find impossible in a totalist society. Some do so through some private religious faith, some manage without. It is always tempting to agree with a gloomy social prognosis, because the dismal seems more serious and profound. That is why great comedians tend to strive to be great tragedians. Woody Allen, having intentionally satirized Ingmar Bergman in *Love and Death*, went on to do an unintentional satirized Ingmar Bergman in *Manhattan*. There is some justification for finding in despair a depth that is not found in joy or contentment. There is an asymmetry of human nature; our capacity to suffer is almost infinite, our ability to be happy is seriously limited. But in politics exaggerated pessimism can be just as dangerous as exaggerated optimism. Grant's warning about the vacuity of life in liberal societies should be taken seriously, but critically.

Much of the same may be said for Grant's criticism of public life in the liberal state. Grant implies that in the past people found satisfying and effective lives in the public service of the liberal state. This has been possible mainly because people brought strong moral commitments to that life from their private religious faith. But it seems to be entirely possible to find that many people would find the goals of the liberal state sufficiently inspiring to give them some purpose in life. An unimaginable amount of misery in the world would be eliminated if more people in more societies were able to obtain the material welfare and political freedom to which political liberalism says they are entitled.

Since Grant delivered his lecture series on which *English Speaking Justice* was based there have appeared several Christian critiques of political liberalism from better known authors. In *Knowledge and Politics*, Roberto Unger delivered (from Harvard, of all places) an unrelievedly abstract expose of the internal contradictions of the liberal world, which concluded by calling on God to speak. In *A World Split Apart*, the text of a speech to a Harvard graduating class, Alexander Solzhenitsyn denounced the spiritual vacuity and moral cowardice he perceived in the West. In many

75. T. Wolfe, "The Me Decade and the Third Great Awakening" in *Mauve Gloves and Madmen, Clutter and Vine* (Toronto: McGraw-Hill Ryerson, 1976).

ways, Grant's criticism is more effective than either Unger's or Solzhenitsyn's. For Grant writes with a concrete understanding of the workings of the societies he is appraising. He has a genuine appreciation of their strengths as well as a perception of their weaknesses. And he is open in admitting that his own position is based on faith, rather than a sound intellectual theory. The modesty and honesty of Grant's warning calls upon us to give it our serious and critical attention.