

PROTESTANT FREE CHURCH CHRISTIANS
AND *GAUDIUM ET SPES*: AN HISTORICAL
AND PHILOSOPHICAL PERSPECTIVE

Michael D. Beaty
Baylor University
Michael_Beaty@baylor.edu

Abstract: Frances Wayland’s *The Elements of Moral Science* served for 19th century Free Church Protestants a somewhat analogous role as *Gaudium et spes* has for Catholics living in the latter half of the 20th and the early part of the 21st century. It articulated a framework within which one’s social duties, as an expression of justice, benevolence and a commitment to the common good, were located. It thereby occupied a didactic function, not only within the college classroom, but also with respect to the larger Protestant culture. At the beginning of the 21st century, no such document among free church Protestants provides a common moral framework for articulating our shared social duties. In this essay, I identify some of the important common themes or commitments shared by Wayland’s *The Elements of Moral Science* and the Pope Paul VI’s *Gaudium et Spes*. Second, I will identify some important differences between these two texts. Finally, I will identify those differences that undermine the moral consensus both *The Elements of Moral Science* and *Gaudium et Spes* affirm, differences which promote the moral fragmentation so characteristic of our own age.

I

*Gaudium et Spes*¹ affirms a commitment to the fullness of the vocation of human persons, drawing upon the breadth and depth of Christian theological reflection on vocation. In so doing, it embraces a vision of human persons bound together under God for the welfare of all, and hence articulates important commitments to justice within the social order. What is striking about 21st century Protestant Free Church Christianity, especially as exemplified by Baptists, is that they have no such document to provide an expression of not only our common vocation, but a shared understanding of social justice and its implications for the ministry and life of the church.

I argue, however, that for much of the nineteenth century, Protestantism in general had such a document. The “document” is the collective moral philosophy texts used prolifically in Protestant colleges and universities throughout the United States. For example, the Baptist churchman, president of Brown University (1827-1855), and philosopher, Francis Wayland, authored a popular and widely used moral philosophy text, *The Elements of Moral Science*.² Clearly, it is indebted to Lutheran and Calvinist views about vocation. However, it is a didactic text and its primary aim is to make clear to its readers, especially students, one’s moral and especially social duties—i.e., what

justice requires of a moral and democratic citizenry. In short, like *Gaudium et Spes*, it is intended for moral guidance on social justice.

Thus, Wayland's work served for 19 century Free Church Protestants a somewhat analogous role as *Gaudium et spes* has for Catholics living in the latter half of the twentieth and the early part of the twenty-first century. So, it might reasonably be argued that Free Church Protestants at one time generally subscribed to a widely shared, intellectually rigorous, and theologically inspired document evincing healthy commitments to social justice.

Whatever commitments and/or consensus may have existed in Protestant texts like *The Elements of Moral Science*, they appear to have been fragile, for Free Church Protestants by no means have anything approximating shared commitments regarding the important issues of social justice today. Baptists, for example, may be found committed to a wide range of conflicting positions on poverty, welfare, international peace, nationalism, environmentalism, and consumerism, to say nothing of beginning- and end-of-life questions, with some holding economically and politically conservative views, and others espousing more traditionally liberal views. More troubling, are the deep disagreements about the fundamentals to which Christians should appeal in adjudicating disagreements, justifying intermediate moral positions, and guiding moral and social action.³

While accounts like Alasdair MacIntyre's *After Virtue* offer a general explanation for this phenomenon, a number of influences within Baptist life in the twentieth century compounded the problem, further frustrating any shared commitment to redress socially significant problems of justice.⁴ Those influences include a radical, "Restorationist" aversion to tradition as a source of faithful Christian understanding and practice; a self-consciously welcomed propensity for anti-Catholicism, attended by oft-repeated proclamations about the supposedly pernicious influences of Roman Catholicism; a conflation of the spirit of Christianity with the spirit of Western, liberal democracy, exemplified in the work of twentieth century Baptists such as E. Y. Mullins that prize the principle of individual liberty over the communitarian character of Christianity,⁵ a tendency toward an experiential and individually oriented pietism that, among other things, concerned itself more with personal salvation to the neglect of the reformation of the social order; and a church polity that privileged the life of the too often self-preoccupied local congregation over that of the church universal.

In this essay, however, I intend to show that the seeds for the moral disarray Baptist and other Free Church Protestants face as a part of the fabric of our social existence in contemporary American, and, more broadly, Western Culture, were present in these 19th century textbooks. Given their current location in the particular soil of American democratic culture and a certain kind of environment, I argue that it is not surprising that they germinated perversely and now bear bitter fruit in our social life. For some, the increasingly secular nature of our culture is the explanation for the morally fragmented culture we endure. But this cannot but be a partial, at best, explanation. For many of the secular Enlightenment thinkers fully expected a morally unified culture around ideals

justified by appeal to reason, once the non-rational and competing religious views were displaced from the center of a sophisticated western culture.

Not surprisingly, the moral fragmentation and disarray that is characteristic of our larger culture is characteristic of American higher education and our universities. If several recent scholars of American higher education are correct, the reformers of American colleges and universities, who were also the creators of the modern university in America, did not intend to secularize their institutions.⁶ They did not intend to reject moral and religious purposes as relevant, even central, to a legitimate university education. What they most wanted to do was to adapt the old collegiate system to the new democratic, economic, and religious environments that were essential features of the American social and civil society. Nonetheless, they did, want to “replace older, authoritarian methods with new ones.”⁷

Herein lies one connection to our study. Frances Wayland represents a prominent, American university president who straddles the divide between the modern university and the old-time college. On the one hand, educated in the classical, old-time college, he criticized the curriculum for being too narrow and rigid. On the other hand, he taught the moral capstone course and his text is the most popular one ever published, and was a defining feature of the classical collegiate educational experience. While Wayland clearly embraced familiar themes of Christian educators in the West such as the unity of truth and knowledge, a harmony between reason and revelation, and a harmony between our moral duties known by reason and our duties known by revelation, I shall argue that his own view provides the seeds of fragmentation and disunity. The moral fragmentation which plagues our culture is an outgrowth of a kind of religious thought—Protestant or Free Church Protestant thought or a distortion thereof. The move from Evangelical Protestantism to Protestant Liberalism to secularism that Marsden so aptly describes in *The Soul of the American University* will be exhibited here as well. By contrast, my paper implies that *Gaudium et Spes* fares better, though I shall not have the space to argue the point in this essay.

The essay has three parts. First, I identify some of the important common themes or commitments shared by Wayland’s *The Elements of Moral Science* and the Vatican Council II’s *Gaudium et Spes*. Second, I will identify some important differences between these two texts. Finally, I will identify those differences that undermine the moral consensus both *The Elements of Moral Science* and *Gaudium et Spes* affirm, differences which promote the moral fragmentation so characteristic of our own age (hereafter, *EMS* and *GES*).

II

Both texts presume that God is the Author of all truth and the Creator of the universe, of all created objects, and most importantly, of human beings.⁸ Because God is both creator of all things and author of all truth, both texts presume that knowledge is possible and truth is one of the supreme intellectual goods the possession of which is not only useful with respect to the achievement of a variety of ordinary and mundane human projects, but also the quest for, and the possession of which, is essential to fulfilling our human

obligations to God and for a complete or fulfilling human life. Likewise, both texts presume that all forms of knowledge (moral, religious, and scientific, for example) cohere. Indeed, for 19th century American Protestant educators like Francis Wayland, the unity of truth was an axiom that was institutionalized into the structure of higher education, especially in the curriculum. Moral Philosophy, Intellectual Philosophy, and Natural Philosophy provided the apex of the collegiate curriculum, with the moral philosophy course culminating one's undergraduate experience and typically taught by the college or university president.⁹

Not surprisingly, both documents clearly reflect the view that morality is grounded somehow in God—God's nature, activity, or will. Both speak about moral law and presume its objectivity and the objectivity of moral judgments (right and wrong, good and bad, virtue and vice). Nevertheless, while both insist on the divine origin of morality, both acknowledge the fundamental social nature of human beings and human existence and imply that these relations have much to do with the moral life, the objectivity of moral judgments, and the nature of our moral duties. Indeed, both are committed to the view that our social relations ground many of our moral judgments.

Both speak freely of the moral duties and moral or human rights and speak of them as universal and inviolable. Both agree that most of our moral obligations or duties are accessible to our ordinary human powers and both insist on the role of conscience in the moral life (either to inform a person of the moral law or to perceive the moral quality in actions).

Both agree that moral action includes the duty to refrain from harming (doing evil or wrong to another or violating another person's right) as well as the duty to actively promote another's welfare (active charity or benevolence). Both emphasize the fundamental moral equality of all human beings. Both assume that a civil society must adhere to all the principles (i.e., the moral law) established by God or forfeit its claim to being a legitimate or good or just civil society. Finally, both use not only the language of duty and rights, but also the language of virtue. Indeed, both assume the necessity of a virtuous citizenry, if the aspirations of civil society are to be achieved. Finally, neither affirms the view that the only legitimate form of civil society is a democratic one, though both appear to view it as a morally superior form of governing civil society.

III

The similarities in both texts are many and in this section I identify several more. However, in this section I show that even on themes about which *EMS* and *GES* agree we often find subtle but important differences, differences that matter when displayed on a larger canvas. For example, while both texts affirm the special status of human beings, *EMS* bases that status on our possession of conscience, the faculty that, according to Wayland, perceives or apprehends the moral quality (being right or wrong, obligated or not, and so on) and which propels us toward the right and away from the wrong. Possession of this faculty separates us from brutes and makes it possible for us to stand in a moral relation to God and to all other moral intelligence in the universe.¹⁰ In contrast,

GES grounds our **dignity** or special moral status in the fact that we are created in the image of God and have as our proper end, communion with God and with other human beings.

Both affirm the **equality** of human beings. *EMS* bases this affirmation of a normative moral status on every person being equal in condition, having been given by God the same rights to the means of happiness or, put more succinctly, having the same God-given right(s) to happiness. In contrast, according to *GES*, our fundamental moral equality is grounded in our shared human nature, and its bearing equally the image of God, in our being equally possessors of a rational soul, in our being equally redeemed in Christ, and in our equally enjoy the same common calling and common possible destinies.

Both argue for the necessity of **civil society**. By civil society, I mean a society that includes mechanisms for governing. A civil society is a political community. In *EMS* Wayland provides one primary reason for civil society. Civil society provides the convenient or rationally preferable mechanisms for protect individuals' rights from being violated and for redressing wrongs done to individuals. *EMS* acknowledges that our natural condition is dependence on others, and thus, that the benevolence of others is necessary to our well-being. But this sort of benevolence is best left to individuals or to various non-civil societies, Wayland implies, rather than civil society. In contrast, *GES* acknowledges our natural dependence on others and insists that some form of political organization is necessary to secure the human good. It implies that the protection of rights is a necessary condition of being a good civil society, but also it implies that the mere protection of individual rights is not sufficient to account for the legitimate function of civil society. The promotion of human flourishing is equally its aim rather than merely providing a space within which individuals are free to pursue their own conception of the good life for human beings.¹¹ Moreover, *GES* makes the familiar Aristotelian or Thomistic point that a civil society seeks the communities common good. It implies that the common good is not adequately expressed in terms of the protection of individual rights.

Both *EMS* and *GES* make clear that a legitimate civil society requires not only legitimate political authority, but also that political authority must be conditioned by principles of justice and reflect a genuinely moral order. In *EMS*, Wayland clearly limits his notions of justice to the protection of individual rights and duties. *GES* is committed to a more capacious view.

Wayland insists that a genuinely free political community will require virtuous citizens, but he seems to preclude government or civil society from playing a role in the formation of such citizens, leaving this task to other voluntary societies. Thus, they differ, it seems to me, in that *GES* expects civil society, by virtue of the agency of government, to play a more active, positive role in the formation of virtuous citizens and in the elaboration of a genuinely good civil or political society. In short, *EMS* makes the state a negative good or necessarily evil rather than a positive good, in contrast to *GES* view of the state.

Both affirm the importance of human freedom to individual dignity and civil society. As I have said, Wayland in *EMS* makes the chief end of civil society the protection of individual rights. Though he never puts it this way, he makes the existence of society a necessary evil with respect to individual freedom, the consequence of my need for a secure mechanism to insure that my neighbors respect my rights and a convenient means for redressing the wrongs done to me when my rights are violated, thus my freedom impinged upon.

Wayland makes it clear that civil society exists because of a voluntary compact between one human being and every other human being who chooses to contract with him or her to form civil society. Each human being voluntarily enters and each may voluntarily leave at will. By doing so, Wayland privileges individual freedom and individual conscience. Indeed, Wayland says,

“[t]he individual, by entering into society promises to abstain from whatever is inconsistent with the existence of society; but . . . he promises nothing more. Society promises to restrain and to redress what would be destructive of really society, but it promises nothing more. In all other ways, the parties (individuals) are exactly in the situation in which they were before the establishment of society. Thus, freedom, therefore, both of person, of intellect, and of conscience, remain by the fact of the existence of society, untouched.”¹²

GES recognizes that human beings are already social beings, with obligations and duties to one another, indeed, to the civil order, prior to any hypothetical contract. In other view is sheer fiction. Moreover, even if one began in nature, prior to a social contract, merely an individual, the contract does not leave individuals in exactly the same situation before the social relations are understood as implying not only duties, but virtues to enable one to fulfill one’s duties.

EMS also insists that “society is an ordinance of God” and that its existence is willed by God. It follows that all persons have an obligation to God to participate in civil society and to work for its preservation. *GES* is also committed to the view that civil society is ordained by God and that Christians are obligated to participate in the civil society within which they find themselves, consistent with God’s moral law. However, Wayland emphasizes the voluntary nature of civil society whose pre-condition is the consent of free individuals.

While the view that society is ordained by God is consistent with its being a voluntary society, Wayland recognizes a tension and resolves it by distinguishing between a simple society, which is voluntary without restriction and a civil society. No simple society has a right to impose any other obligation other than those to which its members have freely placed themselves.¹³ In contrast, Wayland insists that since society is an ordinance of God, something he has commanded, it is no simple voluntary society. In the latter, individuals agree to various things based on their desires and self-love or self-interest. They may dissolve it as freely as they formed it. But all human beings are obligated to be

members of some form or other of civil society, insists Wayland, and our natures imposes it on us as well.¹⁴ Moreover, it must be established on God's principles, not merely on whatever it is to which the individuals agree. Wayland insists that individuals cannot form a civil society according to any other than God's principles without violating the rights of their fellow human beings and without disobeying the laws of God.¹⁵ Thus, Wayland presumes that, ideally, it is a condition of a civil society

- (i) that each of its members freely consent to the principles that ground and govern it and
- (ii) that each of its members recognizes the moral law as the laws of God and freely consent and
- (iii) that such laws fix the boundaries of the rights and duties of its citizens.

IV

In this section, I discuss those differences between *EMS* and *GES* that undermine the moral consensus both *The Elements of Moral Science* and *Gaudium et Spes* affirm, differences which promote the moral fragmentation so characteristic of our own age.

Both *EMS* and *GES* elevate the individual as a matter of moral concern, and affirm the value of freedom and voluntary activity. Wayland, I contend, defends the priority of the individual and the primacy of voluntary consent in ways that *GES* does not. This becomes clear in several passages. For example, Wayland asks us to consider whether or not an individual would give up any freedom if that person agreed that civil society was properly grounded on God's principles (the principle of reciprocity) and if he or she was perfectly inclined to follow it. He answers that they would not. Thus, Wayland concludes that since

society in *its most perfect state may exist* without the individual's surrendering up the right to do anything which is consistent with the law or reciprocity, *the existence of society* presents no reason why he should surrender any right which he may enjoy consistently with this law.¹⁶ (Wayland's emphasis)

That the individual may enter society without restricting one whit his God-given individual freedom has important consequences, contends Wayland. For one thing, as every man has, originally, the right to do as he pleases, provided he interferes not with the rights of his neighbors, and as the existence of civil society presents no reason why this right should be restricted, it remains, notwithstanding, exactly as it was before; the right vests, without change, the individual himself.¹⁷

Notice four things about Wayland's argument. First, he speaks as if there was, at least hypothetically or ideally, an original condition. Second, that in this original condition every human being had "the right to do as [one] pleases provided he interferes not with the rights of [one's] neighbors."¹⁸ Third, that in civil society "there is no reason why this

right (to do as one pleases as long as one does not interfere with the rights of one's neighbors) should be restricted."¹⁹ Fourth, that the right (to do as [one] pleases . . .) vests, without change, the individual himself."²⁰

Most of the ideas in this passage are familiar. They echo John Locke who appeals to a state of nature to explain the nature and extent of legitimate political power. On his view, in our original condition, prior to the existence of a governing body whose authority includes the right to make and enforce laws, each human being is free to do as one pleases, though in such a state we recognized even prior to the existence of human laws that all human being possessed certain rights which made it wrong for one to use one's freedom in certain ways, even if it pleases one to do. It is clear that Wayland affirms that the status of being a rights-bearer in this way (being free to do whatever one pleases as long as one does not violate the rights of others) gives each person moral worth and authority, antecedently to the status one acquires by the investments of civil society in its citizens. If we appeal to ideas common to Hobbes and Locke, we may read Wayland as affirming the absolute sovereignty or authority of the individual in contrast to the limited sovereignty or authority of civil society. In short, civil society is not vested with the same normative authority or sovereign status as the individual.²¹

To be fair to both Locke and Wayland, the normatively superior status of individuals in comparison to civil society is antecedently dependent on God's will. Despite that proviso, they argue that individual freedom, conditioned by the rights of others, is an essential feature of human nature, as decreed by God. In contrast, the moral status of civil society is derivative from the superior moral status of the individual and dependent on its status being constructed in the right way from individual freedom. This is clear from Wayland's, no less than Locke's account.

So, what's the rub? First, it appears that individual freedom is the *summum bonum*, the ultimate or highest good of civil or political society. *GES* clearly disagrees with this account of the relation between individuals and the goods a civil or political society is to serve. Second, Wayland has a double justification for the legitimacy and authority of the civil society. From the human standpoint, it not only exists but its powers are justified by, and only by, the consent of individuals and has the authority and worth proper to human beings whose moral worth is based on the exercise of human freedom in this way. From the divine standpoint, the law of reciprocity, which defines the rights of individuals, has been decreed by God, who is our Creator and whose possession we are. Thus, we are also obligated to obey the law of reciprocity by virtue of our creaturely status in relationship to God and because, being rational individuals, it our civil laws will be based or derived from the law of reciprocity and we have freely consented to obey all such laws.

The context of contemporary American culture differs in significant ways from Wayland's era. While popular democratic notions affirm that civil society and its political authority is grounded on human freedom and the contract consenting adults make with one another, human beings do not generally agree that civil society is legitimate only if it is grounded on God's laws or principles. This is because some have rejected the notion of God, though most Americans have not. Others have become convinced that even if God

exists and promulgates His will in accessible ways to humankind, it is inappropriate to appeal to God or God's moral law to justify limitations on human freedom. They do not generally accept the law of reciprocity as the inevitable ground of their rights or if they do they accept an impoverished version of it. One impoverished version of it is this: One has a right to do whatever one please as long as doing it does not harm non-consenting adults. Another is found in the neighborhood of Justice Blackmun's dissenting voice in *Bowers v. Hardwick*, a case that came to the Supreme Court in 1986 contesting Georgia's ban on sodomy. While the majority ruled in support of the constitutionality of the legal ban, Blackmun insisted that it was unconstitutional because it violated a recently articulated constitutional right to privacy. On Blackmun's view, such behavior in the privacy of one's home, rests on broad understanding, and hence guarantees, of individual freedom. He argued that individual freedom includes the right to define one's identity in or by intimate associations with others.²² Whatever one thinks of the morality of sodomy or the legal or constitutional permissibility of sexual acts between consenting adults, surely Blackmun's defense of sodomy among consenting adults in the privacy of one's home is committed to a version of freedom that is too individualistic on the one hand, and too reductionistic on the other (all genuinely human goods are reducible to and but reflections of the good or goods of individual freedom).

Underlying this impoverished reading (I conjecture that Wayland would view this as an impoverished reading of individual rights) is a loss of confidence or skepticism about appeals to human nature. Wayland and Pope Paul VI agree that marriage is an institution ordained by God and nature as a means to, or constituent of, the good life for human beings. Both agree that sexual relationships are rightly engaged in between a man and a woman who are married to one another. Both agree that all other forms of sexual relationships are forbidden, both by God and the moral law. Yet, it is hard to see how Wayland can justify his understanding that homosexual relationships or same-sex marriages are wrong by appeal merely to the law of reciprocity. On Wayland's view, all human beings are possessed of the same appetites and passions and the same capacity for receiving happiness from the gratification of these desires.²³ According to the law of reciprocity, each person is permitted to gratify those desires as long as in doing so one does not interfere with one's neighbor's right (freedom) to do the same. It follows, then, that each person may use the means of achieving happiness that one thinks will best promote that happiness. In addition, he maintains that each person is the best judge of the means of achieving happiness.²⁴ Thus, Wayland concludes that

[f]rom this relation it is manifest that every man is under obligation to pursue his own happiness in such a manner only as will leave his neighbor in the undisturbed exercise of that common right which the Creator has equally conferred upon both, that is, to restrain his physical power of gratifying his desires within such limits that he shall interfere with the rights of no other being, because in no other manner can the evident design of the Creator, the common happiness of all, be promoted.²⁵

Later he makes even more explicit his reasoning by insisting that

[e]very human is by constitution, a separate and distinct and complete system, adapted to all purposes of self-government and responsible, separately, to God for the manner in which his powers are employed. Thus, every individual possess a body, by which he is connected with the physical universe, and by which that universe is modified for the supply of his wants; an understanding, by which truth is discovered, and by which means are adapted to their appropriate ends; passions and desires, by which he is excited to action, and in the gratification of which his happiness consists; conscience, to point out the limit within which those desires may be rightfully gratified; and will, which determines him to action. The possession of these is necessary to a human nature and it also renders every being so constituted a distinct and independent individual.²⁶

It follows, concludes Wayland, that “a man has a right to use his own body as he will, provided he does not use it to interfere with the rights of his neighbor.”²⁷

At this point, one can well imagine the plaintiffs in *Bowers vs. Georgia* nodding in agreement. Indeed, we might imagine the plaintiffs to claim, echoing Wayland, that consenting adults who agree to have sex, though they are members of the same sex, cannot be interfering with their neighbors rights, at least in so far as their neighbor is the proposed sexual partner. Moreover, they might go further, echoing Wayland again, to claim that since the right to use the means of happiness which God has given all human beings is conferred by God on each individual, the individual is independent of society. Thus, since a society is comprised of many individuals, it has no rights but those that have been given it, in specified and limited respects, by the voluntary consent of the individuals who compose it. The pursuit of happiness is clearly an inalienable right. Sexual relationships among consenting adults is clearly a means to such happiness, no matter what their various sexual identities happens to be.²⁸ Is there anything in Wayland to block such a move?

In the long quotation above, Wayland identifies conscience as that human faculty that points out the limits within which our human desires might be rightly gratified. What would conscience say about *Bowers vs. Georgia*, according to Wayland? What Wayland has written suggests the following argument, though these are my words.

According to both reason and revelation, God has ordained that the men and women should live together in a unique society called marriage. Marriage is a mutual contract between two persons to live together in mutual respect and affection. It is the foundation of society, and one important function of marriage is children, whose formation in the family prepares them to enter civil society, and the larger family of humankind. The proper boundaries of the relationship of man and woman in marriage has been established by God, and whatever laws civil society makes with respect to it, must be consistent with God’s laws. Hence, the civil law with respect to marriage is binding on the conscience only if it corresponds to the law of God. The duty of chastity limits the indulgence of our

sexual desires to a male and a female who are exclusively united to each other for life. Thus, fornication or intercourse with prostitutes or with any other individuals under any other condition than the marriage covenant is forbidden. Hence, conscience teaches us that sodomy is forbidden and the majority opinion of the Supreme Court acted in accord with the moral law (and God's law) in the case of *Bowers v. Georgia*.²⁹

How might the plaintiffs respond? They might begin by arguing there is no reason to think that consenting adults have a duty of chastity, as specified above. If the indulgence of our sexual desires is a necessary means to the increase of one's happiness, why is engaging in the homosexual relationship called sodomy, if its aim is the production of happiness between mutually consenting adults? Suppose they intend to be exclusively related to each other, and would gladly do so in any civil ceremony that legally recognizes their relationship. What right has been violated with respect to either individual?

It appears to me that Wayland would be hard pressed to answer without appealing to his claim that "society has a right to prevent its own destruction" and then to argue that permitting sexual relationships such as adultery, sodomy, and other same-sex acts among consenting adults would be destructive of the family.³⁰ He could argue that since the family is the foundation of civil society, society has a right to forbid such liaisons in order to protect itself. But, it seems to me that proponents of same-sex liaisons have a reasonable response. Why think that such liaisons are going to destroy the family? What's the evidence for such a large claim? Scholars estimate that only a very small proportion of the population is gay. Given the small percentage of population who are disposed to seek their happiness by such relationships, and the multiple societal inducements that encourage and support the traditional understanding of marriage, it seems highly unlikely that permitting same-sex relationships would undermine the traditional family. Moreover, if Wayland's aim is to protect marriage and promote families, why not permit same-sex marriages between consenting adults whose prospects for happiness are increased, so they believe, by such relationships, and harmed by their being forbidden. I suspect that were Wayland privy to these discussions, he might recognize now that he needs to appeal to more than individual rights and the individual happiness they serve. Rather, like John Paul II in *GES*, he would need to appeal to a rich, thick notion of the human person, of the nature of men and women, of marriage, in short, of human nature, and its implications for the relationship between familial common good and the political common good. In our own day, skepticism about human nature, and so on, send moral theorists to thin proceduralist accounts of "the Right" in an effort to create as much common ground as possible among those who hold competing and inconsistent notions of "the Good for human beings." My hypothesis is that Wayland in fact held a much thicker account of human nature, one that grounded his accounts human persons, of the social relations of marriage and citizenship, and of the virtues such as chastity and benevolence. After all, how could chastity be a genuine virtue without an account of marriage that is not only more than but other than merely a contractual agreement between to rights-bearers whose ultimate good is either individual freedom or individual happiness? In short, Wayland's Lockean notion of rights and reciprocity has as its deep

background a thick Christian anthropology, as does Pope Paul VI's notions of social justice and rights in *GES*.

Recently Supreme Court Justice Kennedy took the argument I have developed from Wayland-like premises one step farther. He begins with a premise easily obtainable from Wayland. In *Lawrence and Garner v. Texas*, the Supreme Court decision in June 2003 that declared the Texas law against sodomy unconstitutional, Kennedy claimed that the neither the State nor the court should define the meaning of sexual relationships between members of the same sex "absent injury to a person or abuse of an institution. It suffices for us to acknowledge that adults may choose to enter upon this relationship in the confines of their homes and their own private lives and still retain their dignity as free persons." Going further, Kennedy affirms the Court's conception of liberty as expressed in *Planned Parenthood of Southeastern Pa. V. Casey*, (1992) which says, "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." From this reasoning, not only would it follow that sodomy laws are infringements on the liberty of persons, but also laws that restrict marriage to a mutually beneficial relationship between a man and a woman would also be infringements of the rights of individuals. It is not surprising, then, that very recently the Massachusetts Supreme Judicial Court declared that there was no constitutionally adequate reasons to deny lesbian and gay couples the right to marry.

No doubt, Wayland would be shocked by not only the decisions of the Court in *Lawrence v. Texas*, and the Massachusetts Court, but also by the central premise(s) of which the majority avail themselves of to defend their decisions. But why? Or more to the point, what is the difference that makes a difference between the Kennedy and Wayland? Both Wayland and Kennedy agree that it is individual freedom expressed in mutual consent that invests moral worth or authority in the individual choices and derivatively, in the decisions and choices of civil society. Clearly Wayland is committed to something independent of such choices and this something is God and God's will expressed as both moral and revealed law. His commitment to God as something external and independent and higher than human beings would explain why he would have found it shocking to assert that individual liberty includes the right "to define one's own concept of existence, the meaning of the universe, and the mystery of human life." Yet, Wayland himself says, "[e]very individual is created with a desire to use the means of happiness which God has given him in such a manner as he thinks will best promote that happiness; and of this manner he is the sole judge."³¹ It is a short step from Wayland's assertion that each person is the best judge of the means to one's own happiness to each person is the best judge of the meaning of one's life, the meaning of the universe, and the mystery of human life? Without an appeal to God's will, Wayland has nothing to block the notion that mutually consenting adults are the best judge of what counts as the means to their happiness.

V

In conclusion, our own contemporary culture differs in significant ways from Wayland's early to mid-19th century American culture. Present in our day is a loss of confidence or,

more strongly, a cultivated skepticism, and even hostility, about appeals to human nature or the moral law or God's law or will as means of justifying moral claims about social justice. However, what remains for many contemporary Americans as an act of faith is the view that the fundamental ground of moral authority is individual freedom expressed a personal choice. For many, this judgment is an essential feature of democracy, and essential to our egalitarian ideals. There are, of course, many routes to this judgment shared. I have shown that Frances Wayland provides one such route, a route I contend has been traveled often by Protestants of the Free Church tradition. For Wayland was confident that human nature is something universal, objective; inviolable; and that God's laws are eternal and inviolable. Absent those struts, Wayland has nothing to correct an individual's judgment about counts one's happiness or one's best means to obtaining happiness. And many contemporary Protestants, even Baptists, find themselves similarly situated, and sadly so.³²

¹ Pope Paul VI, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* (Boston: Pauline Books and Media, 1965).

² Francis Wayland, edited, and with introduction, by Joseph L. Blau, *The Elements of Moral Science* (Cambridge, MA: Harvard University Press, 1963). Julie Reuben claims that it is America's most popular moral philosophy text. It went through nine printings. Julie Reuben, *The Making of the Modern University: Intellectual Transformation and the Marginalization of Morality* (Chicago: University of Chicago Press, 1996), p. 21.

³ Two points are worth mentioning at this point. First, several of our Catholic friends contend that Catholics are in exactly the same situation. It does not seem to us to be so, but we will have to defer on this point for now, until we bring some empirical data to bear on the matter. Second, if we are wrong and our Catholic friends are in exactly the same cultural situation, perhaps it only affirms Martin Marty's claims a decade or so ago that the American religious culture has been "baptistified" and makes our reflections all the more important. It does seem to us that the presence of the Roman Magisterium and official texts expressing its teaching would set limits on the range of possible acceptable positions, limits for which it is difficult to find a principled position, given the Baptist distinctive, soul-competency, even assuming the authority of the Bible and the Protestant principle of *Sola Scriptura*.

⁴ Alasdair MacIntyre, *After Virtue: A Study in Moral Theory*, 2nd edition (Notre Dame: University of Notre Press, 1984). MacIntyre famously argues that most modern Americans, among others, use moral language as if it were objective, but because we have inherited fragments from earlier coherent moral traditions which now stand incoherently amalgamated in our practices, our claims are inevitably subjective and emotivist, that is, used to manipulate and not to rationally persuade others of our moral positions.

⁵ See, for example, E. Y. Mullins, *Freedom and Authority in Religion* (Philadelphia: Griffith and Rowland Press, 1913).

⁶ See, for example, James Burtchaell, *The Dying of the Light: The Disengagement of Colleges and Universities from their Christian Churches* (Grand Rapids, MI: Eerdmans, 1998); George Marsden, *The Soul of the American University: From Disestablishment to Established Non-Belief* (New York: Oxford University Press, 1994); Philip Gleason *Contending with Modernity: Catholic Higher in the Twentieth Century* (New York: Oxford University, 1995); and Julie Reuben, *The Making of the Modern University*.

⁷ Reuben, *The Making of the Modern University*, p. 12.

⁸ In a paper of this length, I will have neither space nor time to provide a complete list of references or footnotes to empirically justify my claims about the content of *EMS* and *GES*. I am presuming that our readership is familiar with *GES* and will recognize the themes I cite. In addition, I hope you will trust me on the content of *EMS*, at least at this stage of the scholarly process.

⁹ Reuben, *The Making of the Modern University*, pp. 22-23.

-
- ¹⁰ No doubt, this emphasis on the supreme authority of conscience reflects Butler. Joseph Blau's "Introduction" to Wayland, *The Elements of Moral Science*, 1963, pp. xli-xlii; also, see J. B. Schneewind, *The Invention of Autonomy* (Cambridge, MA: Cambridge University Press, 1998), pp. 345-349.
- ¹¹ See Stephen Macedo, *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism* (Oxford: Clarendon Press, 1991), for a defense of democratic civil society in light of this particular way of identifying the end of democratic culture.
- ¹² Wayland, *The Elements of Moral Science*, p. 319.
- ¹³ Wayland, p. 307.
- ¹⁴ *Ibid.*, pp. 311-313.
- ¹⁵ *Ibid.*, p. 314.
- ¹⁶ *Ibid.*, p. 316.
- ¹⁷ *Ibid.*, p. 317.
- ¹⁸ *Ibid.*
- ¹⁹ *Ibid.*
- ²⁰ *Ibid.*
- ²¹ The Oxford English Dictionary includes in its definitions of "vest" "to place or secure something . . . with power or authority."
- ²² *Bowers*, 106 S. CT. 2841 (1986), pp. 2845-6.
- ²³ Wayland, *The Elements of Moral Science*, p. 175.
- ²⁴ *Ibid.*, p. 176.
- ²⁵ *Ibid.*, p. 176-177.
- ²⁶ *Ibid.*, pp. 182-183.
- ²⁷ *Ibid.*, p. 183.
- ²⁸ *Ibid.*, pp. 176, 198.
- ²⁹ *Ibid.*, pp. 270-280.
- ³⁰ *Ibid.*, p. 201.
- ³¹ *Ibid.*, p. 176.
- ³² My thanks to David Gushee of Union University, Dan McInerney, John Robinson, and David Solomon of the University of Notre Dame for their comments on earlier versions of this paper, to Travis Pardo of Baylor University for his assistance in research and editing the paper, and to Doug Henry and Scott Moore of Baylor University for their collaboration on the larger project of which this essay is one part.