

## EDITOR'S PREFACE

For the hermeneutically minded, this issue of the *Journal of Law and Religion* should be an invaluable resource. Each of the articles in this issue poses a question about the interpretation of law, of sacred text, or both. Each represents a “surprise twist” at the end of our familiar “novels” of legal and theological interpretation. Fr. Gregory Kalscheur’s *Christian Scripture and American Scripture: An Instructive Analogy?* asks if we would want to see both theology and law through the late Jaroslav Pelikan’s “binocular vision,” which centers the hermeneutical enterprise in “creative fidelity to the text in the midst of the change inevitably generated by the ongoing experience of the community given life by that text.” Kalscheur, with Pelikan, would thus ask, “Is the proposed textual interpretation an authentic, healthy development manifesting creative continuity-in-identity, or is it a malignant corruption of the identity of the community given life by the text?” Kalscheur goes a step beyond, calling for a more developed account of constitutional interpretation that focuses on this question in ways that will be practically useful for lawyers and legal theorists.

In *Asking the Right Questions: Harnessing the Insights of Bernard Lonergan for the Rule of Law*, Patrick McKinley Brennan poses the question of interpretive authenticity by asking whether “there exist[s] law that is so objective—so object-like—as to (be able) to constrain human subjects acting in the name of the law?” His answer, built upon the work of Catholic philosopher/theologian Bernard Lonergan, proposes that our “primordial desire to know” manifested in “the pure question” is the inner law that governs both our individual and collective evaluations of what our communities do “in the name of law.” Without the acknowledgement and guidance of this inner law, Brennan proposes, the positive law, in its text and practice, is nothing but coercion.

The Langdellians and their European counterparts proposed a different approach, built upon scientific observation of legal practice and a focus on the conceptual constructs that made sense of law. Chaim Saiman’s *Legal Theology: The Turn to Conceptualism in Nineteenth-Century Jewish Law* documents a parallel movement in the study of Jewish law that occurred in more obscurity, in the Lithuanian village of Volozhin, where “rabbinic legal scholars were creating their own fusion of law, theology and science,” which has come to be known as the

*Brisker derekh.* The Briskers sought to modernize halakha by understanding its “endless collection of technical details” through an “elegant system of interrelated legal concepts.” In doing so, they went back to original sources, focused on principles rather than particulars, and transformed the study of Jewish law, while yet not losing the connection between religious belief and law that followed the Langdellian ethos in the United States.

Theology and political theory, too, have been influenced by the conversation between law and religion. David VanDrunen upends the conventional portrayal of Calvinist interpretation as primarily literalist and its political theory as relentlessly obedient to authority by exploring the theological arguments of Calvinist resisters, including British Calvinists who ran from persecution by “Bloody Mary” Tudor’s government (1550s), and French Huguenots who wrote in the wake of the St. Bartholomew’s Day Massacre (1572). VanDrunen shows how these resistance writers exhibited a robust understanding and use of natural law arguments, as well as historical and natural world analogies, and non-Christian theory, to refine and supplement textual arguments in their challenge to political tyranny.

Marci Hamilton and Carolyn Evans complement these imaginative critiques on the problem of interpretation with their evaluations of new books on religion in public life. Hamilton reviews three works, books by James Skillen and Terence Cuneoh on the role of religion in democracy, and a set of essays edited by Dreisbach, Hall and Morrison on the Founding Fathers’ view of law and religion, describing their contribution to a new understanding of how the destabilization brought on by the newest “wave” of religion might be encountered. Evans explores the thesis that secularization would inevitably accompany modern democracies in her review of Norris and Inglehart’s *Sacred and Secular: Religion and Politics Worldwide* and Nurser’s *For All People and All Nations: The Ecumenical Church and Human Rights*. These review essays, accompanied by more than a dozen book reviews commissioned by our book review editor, Leslie Griffin, give insights into works exploring a broad range of genres, faith traditions, and issues in law and religion. We commend them to your further reading.

Finally, an administrative note. In order to make book reviews more quickly available to a broader audience, the *Journal* has begun publishing completed reviews in advance of publication on its website, [www.hamline.edu/law/jlr](http://www.hamline.edu/law/jlr). You will also find there one or two of each *Journal’s* article offerings that contribute to “Contemporary Conversations” in law and religion, along with a number of other

resources that may be helpful to thoughtful readers and scholars in the field. We welcome suggestions for other appropriate resources we might add with a modest expenditure of time.

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