

ESSAY

## In a Time of Crisis: Reflections on the Fortieth Anniversary of the *Journal of Law and Religion*

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### Abstract

The *Journal of Law and Religion* began publishing as part of the larger revival and reimagination of the academic encounter with religion. More specifically, it sought from the start to examine an entire panoply of issues: secular law regarding religion, religious views of secular law and the state, political philosophy, political theology, religious law, and legal and religious pluralism as overarching ideas. What was at stake to the journal's founders was not just intellectual curiosity but their conviction that this kaleidoscope of concerns was essential to reconstituting a healthy polity, to play a role in responding to a crisis of values that afflicted both religion and the secular state. The journal has also sought to consider questions across the full range of world religions, including non-Western religions. Again, this is not expanding the canon for its own sake. The larger story of legal systems and religions in all their specificity and complex interactions, as revealed by rigorous and imaginative analysis, could ideally help establish a counter-narrative to the simple pieties of modernity. The challenges today, especially our current state of political polarization, which envelops religion in its wake, are different, but they demand the same careful, expansive, scholarly agenda.

**Keywords:** *Journal of Law and Religion*; legal pluralism; religious pluralism; secularization; modernity; crisis of values; political polarization

I was and continue to be delighted to have been invited to write this essay to help celebrate the fortieth anniversary of the *Journal of Law and Religion*, though I do feel like an imposter. I was not present at the creation of the journal, or for years later. But I want in this essay to put the creation and the mission of the journal in perspective.

I might not have been present at the creation of the journal. But I have my own story at about the same time. In fall 1984, my colleague at the Yale Law School, Burke Marshall, of blessed memory, and I began to co-teach a course on religion and law. The best part, of course, was meeting with Burke in his office for an hour before every class hammering out what we wanted to talk about.

I remember well, though, how new that course on religion and law seemed. It was by most standards a conventional course. As I emphasize below, the scope of the course was much more conventional than that of the *Journal of Law and Religion*. Our course focused on the free exercise and establishment clauses of the First Amendment, with a few sub-constitutional

topics thrown in.<sup>1</sup> But even that sort of straightforward religion and law course seemed innovative. The typical First Amendment course focused on freedom of speech, press, and association, with barely a nod, if that, to religion. There were no casebooks then. We compiled our own materials.

The reason that our course was unusual, and the reason that the *Journal of Law and Religion* was transformational, had a lot to do with the profoundly secular character of elite academic culture, especially during the broadly defined middle years of the twentieth century. This trend obviously preceded but also foreshadowed the much noted<sup>2</sup> though complex transformations in the larger society.<sup>3</sup> The law school, and for that matter much of Yale at the time, was not anti-religious as such. This was long before the rise of the New Atheists. And to be sure, the Yale Divinity School stood near one end of campus, the old Protestant hymns figured centrally at academic ceremonies, and the chaplains, at least during my earlier stint as a student in Yale College, were political firebrands.<sup>4</sup> And some of us were religiously engaged in our various ways. But all that seemed peripheral (and often still does) to the academic community and its culture. The reality was not hostility to religion, but indifference.<sup>5</sup> How that happened, how the old colonial colleges—Congregationalist Harvard and Yale, Presbyterian Princeton, Dutch Reformed Rutgers, and so on—evolved into determinedly secular institutions is a story that real historians have told much better than I could here.<sup>6</sup> But I can report that the secularity was not just institutional, it was cultural and

<sup>1</sup> I taught a separate course on the jurisprudence of Jewish law, and Burke and I occasionally tried to smuggle materials about religious law into the law and religion course, but time was too tight to give those topics the attention that, in principle, they would deserve.

<sup>2</sup> See, e.g., STEPHEN BULLIVANT, *NONVERTS: THE MAKING OF EX-CHRISTIAN AMERICA* (2022); GEORGE HAWLEY, *DEMOGRAPHY, CULTURE, AND THE DECLINE OF AMERICA'S CHRISTIAN DENOMINATIONS* (2017); Pew Research Center, *About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated*, Dec. 14, 2021, <https://www.pewresearch.org/religion/2021/12/14/about-three-in-ten-u-s-adults-are-now-religiously-unaffiliated/>.

<sup>3</sup> See, e.g., KAYA OAKES, *THE NONES ARE ALRIGHT: A NEW GENERATION OF BELIEVERS, SEEKERS, AND THOSE IN BETWEEN* (2015); Pew Research Center, *Religious "Nones" in America: Who They Are and What They Believe*, Jan. 24, 2024, <https://www.pewresearch.org/religion/2024/01/24/religious-nones-in-america-who-they-are-and-what-they-believe/>. For a provocative view of the international landscape, see RODNEY STARK, *THE TRIUMPH OF FAITH: WHY THE WORLD IS MORE RELIGIOUS THAN EVER* (2015).

<sup>4</sup> The university chaplain from 1958 to 1975 was William Sloan Coffin, who famously played important roles in both the civil rights and antiwar movements. See WILLIAM SLOAN COFFIN, *CREDO* (2004); WILLIAM SLOAN COFFIN, *ONCE TO EVERY MAN: A MEMOIR* (1977). My own deeper personal connection, however, was with Rabbi Arnold Jacob Wolf, who served as the Yale Hillel director and Jewish chaplain from 1972 to 1980, which included my years as a student in Yale College. See ARNOLD JACOB WOLF, *UNFINISHED RABBI: SELECTED WRITINGS OF ARNOLD JACOB WOLF* (1998); Margalit Fox, *Arnold Jacob Wolf, a Leading Reform Rabbi, Is Dead at 84*, *NEW YORK TIMES*, Dec. 29, 2008, <https://www.nytimes.com/2008/12/30/us/30wolf.html>. Rabbi Wolf was known nationally for his provocative activism on behalf of progressive causes, but I admired him more personally for his cutting intelligence, complicated piety, humor, and unexpected warmth. I credit him with sparking my reengagement with Judaism and Jewish observance. See Perry Dane, *Judaism, Pluralism, and Constitutional Glare*, 16 *RUTGERS JOURNAL OF LAW & RELIGION* 282, 283–84 (2015).

<sup>5</sup> Cf. DOUGLAS JACOBSEN, *NO LONGER INVISIBLE: RELIGION IN UNIVERSITY EDUCATION* (2012); Johannes Quack & Cora Schuch, *Conceptualizing Religious Indifferences in Relation to Religion and Nonreligion*, in *RELIGIOUS INDIFFERENCE: NEW PERSPECTIVES FROM STUDIES ON SECULARIZATION AND NONRELIGION 1* (Johannes Quack & Cora Schuch, eds., 2017). See also PETER L. BERGER, *THE SACRED CANOPY: ELEMENTS OF A SOCIOLOGICAL THEORY OF RELIGION* (1967). Berger would come to modify his views. See PETER L. BERGER, *A RUMOR OF ANGELS: MODERN SOCIETY AND THE REDISCOVERY OF THE SUPERNATURAL* (1970). And, to be sure, reports of American religious indifference go much further back historically than we sometimes suppose.

<sup>6</sup> See, e.g., JACOBSEN, *supra* note 5; GEORGE MARSDEN, *THE SOUL OF THE AMERICAN UNIVERSITY REVISITED: FROM PROTESTANT TO POSTSECULAR* (2d ed., 2021); JON H. ROBERTS & JAMES TURNER, *THE SACRED AND SECULAR UNIVERSITY* (2000). For an analysis that focuses on power relations as much as underlying principles and ideological trends, see CHRISTIAN SMITH, *Secularizing American Higher Education: The Case of Early American Sociology*, in *THE SECULAR REVOLUTION: POWER, INTERESTS, AND CONFLICT IN THE SECULARIZATION OF AMERICAN PUBLIC LIFE* 97 (2003).

personal. And the secularity was, again, not so much a matter of belief or lack of it, but lack of concern, lack of consciousness.

So, the change symbolized in a tiny way by the course that Burke and I co-taught, and in a much more significant way by the beginning of the *Journal of Law and Religion*, was significant. It was part of a larger challenge to the background secularity of academic culture. Something was afoot. It was apparent in law schools. In my experience, the earth shook with the work of Robert Cover, my then-colleague and always inspiration, whose *Nomos and Narrative*<sup>7</sup> dates to about the same time. Others here will point to different scholars at the center of their attention at the time, including those involved with the new *Journal of Law and Religion*. But the renewed interest in religion was obvious in other fields. Analytic philosophy, for example, in its onetime incarnation as logical positivism, once deemed religious language not false but meaningless.<sup>8</sup> Now, though, we have over several decades passed through multiple developmental stages of a specifically analytic philosophy of religion,<sup>9</sup> including Alvin Plantinga's audacious but powerful account of rational warrants for religious belief.<sup>10</sup>

That period or thereabouts, give or take, also saw a burst of serious theological thinking that both confronted and reimagined modernity directly and persuasively, from Stanley Hauerwas<sup>11</sup> to Rav Joseph Soloveitchik.<sup>12</sup> A distinguished philosopher with whom I chatted in the Yale Law School faculty lounge told me once that he could read Soloveitchik's *Halakhic Man*<sup>13</sup> in small doses only or he would be hooked, and that he did not want.

So, what explains increased academic interest in religion? Again, this is a much larger story than I can tell here.

Part of the answer might be that this was the same general era during which the old simple secularization thesis—the notion of a single trend line—fell out of fashion. Religion was not dying. In places, it was resurging.

Remarkably, though, the new academic interest in religion and the respectability of that interest in the United States has continued and grown even as American religion itself finally *does* seem to be in decline. We are in the era of the nones and the spiritual but not religious.<sup>14</sup> What gives?

Part of that answer, as I have already intimated, is that these various large shifts in our overlapping universes of community and discourse—in society as a whole, among social, economic, and educational elites, in religious communities, and among specialist scholars—rarely move in sync. They can even be countercyclical. Moreover, secularization itself, even when it is apparent, is a complex process that is often multi-faceted and paradoxical.<sup>15</sup> Even

<sup>7</sup> Robert M. Cover, *The Supreme Court, 1982 Term—Foreword: Nomos and Narrative*, 97 HARVARD LAW REVIEW 4 (1983).

<sup>8</sup> See, e.g., A. J. AYER, *LANGUAGE, TRUTH, AND LOGIC* (2d ed., 1946).

<sup>9</sup> As William Hasker put it, “Analytic philosophy of religion was gestated in the 1940s, born in the early 1950s, spent its childhood in the 1960s and its adolescence in the 1970s and early 1980s. Since then, it has grown into adulthood, and it reached the turn of the millennium in a state of vigorous maturity, with decline and senile degeneration nowhere in sight.” William Hasker, *Analytic Philosophy of Religion*, in *THE OXFORD HANDBOOK OF PHILOSOPHY OF RELIGION* 421, 421 (William J. Wainwright, ed., 2009). See also JAMES F. HARRIS, *ANALYTIC PHILOSOPHY OF RELIGION* (2002).

<sup>10</sup> ALVIN PLANTINGA, *WARRANTED CHRISTIAN BELIEF* (2000). If my mention of Plantinga, from among the entire cohort of contemporary analytic philosophers of religion, seems arbitrary, that is because it is. My goal here is not to survey the field but only to highlight one especially powerful exemplar of the renewal of serious philosophical interest in religion.

<sup>11</sup> As with Plantinga, I am citing Hauerwas, not because he is either unique or representative, but only because he has always struck me as an especially powerful and provocative, if not always convincing, thinker and writer. See, e.g., STANLEY HAUERWAS, *A COMMUNITY OF CHARACTER: TOWARD A CONSTRUCTIVE CHRISTIAN SOCIAL ETHIC* (1981); Stanley Hauerwas, *Sin sick, in Sin, Death, and the Devil* 7 (Robert Jenson & Carl E. Braaten, eds., 2000).

<sup>12</sup> See, e.g., JOSEPH SOLOVEITCHIK, *THE LONELY MAN OF FAITH* (1965); JOSEPH SOLOVEITCHIK, *HALAKHIC MAN* (1984).

<sup>13</sup> SOLOVEITCHIK, *HALAKHIC MAN*, *supra* note 12.

<sup>14</sup> See Pew Research Center, *supra* note 2; Pew Research Center, *supra* note 3.

<sup>15</sup> See CHARLES TAYLOR, *A SECULAR AGE* (2007).

the phenomenon of the “spiritual but not religious” is sociologically and religiously fascinating beyond the trend line.<sup>16</sup> Oddly enough, when I attended one of my last Yale College reunions a few years ago, students seemed more religiously engaged in many ways than they were when I was in school. But they were engaged as seekers.

Today, though, as I write, these various demographic, sociological, historical, philosophical, and theological currents almost seem beside the point in our polarized age as half the country seems to want to accuse their fellow citizens of trying to impose a “theocracy”<sup>17</sup> and the other half seems to have little interest in responding to the accusation. More on that at the end of this essay.

In any event, the intellectual challenge is to decide how it fits into the larger stories of religion, modernity, atomization, and the decline of all manner of collective institutions and settled identities. We are living in an interesting time that no simple narrative can capture. And the *Journal of Law and Religion* is both an explorer of that story and part of the story itself.

So, I return to the journal itself. Because, as I suggested, what was remarkable about the journal from the beginning was not merely that it began publishing at a time that situates it as part of the larger revival and reimagination of the academic encounter with religion. That would be interesting. But what we should really mark and celebrate is the journal’s mission, vision, and ambition, which trace back to its own prehistory and continues in its new form under the auspices of Emory’s Center for the Study of Law and Religion.

I said that the law school course that Burke Marshall and I taught was mainly concerned with constitutional and some sub-constitutional issues. Eventually, I began to teach a separate course on the jurisprudence of Jewish law.<sup>18</sup>

But the *Journal of Law and Religion* always had a much broader agenda. It examined an entire panoply of issues: secular law regarding religion, religious views of secular law and of the state, political philosophy and public reason, political theology, religious law, and legal and religious pluralism as overarching ideas. To see all this at work, just consider the articles, some by luminaries in the field, published in the very first volume of the journal:

- Harold J. Berman offering a historical perspective on religious foundations of law in the West<sup>19</sup>
- Christopher F. Mooney on public morality and law<sup>20</sup>
- James R. Smurl, writing on the social ethics implicit in the work of Louis Brandeis<sup>21</sup>
- Ed Gaffney offering historical and theological reflections on biblical religion and American politics<sup>22</sup>
- Lynn Buzzard on the evangelical rediscovery of law and politics<sup>23</sup>
- Max Stackhouse giving an ecumenical perspective on neoevangelical politics<sup>24</sup>

<sup>16</sup> See *supra* note 3.

<sup>17</sup> For my own take on the complexities of the idea of “theocracy” which I take to be one of those unmoored pejoratives akin to “socialism,” see Perry Dane, *Foreword: On Religious Constitutionalism*, 16 *RUTGERS JOURNAL OF LAW & RELIGION* 460, 463–76 (2015).

<sup>18</sup> See *supra* note 1.

<sup>19</sup> Harold J. Berman, *Religious Foundations of Law in the West: An Historical Perspective*, 1 *JOURNAL OF LAW AND RELIGION* 3 (1983).

<sup>20</sup> Christopher F. Mooney, *Public Morality and Law*, 1 *JOURNAL OF LAW AND RELIGION* 45 (1983).

<sup>21</sup> James F. Smurl, *Allocating Public Burdens: The Social Ethics Implied in Brandeis of Boston*, 1 *JOURNAL OF LAW AND RELIGION* 59 (1983).

<sup>22</sup> Edward McGlynn Gaffney Jr., *Biblical Religion and American Politics: Some Theological and Historical Reflections*, 1 *JOURNAL OF LAW AND RELIGION* 171 (1983).

<sup>23</sup> Lynn Buzzard, *The Evangelical Rediscovery of Law and Politics*, 1 *JOURNAL OF LAW AND RELIGION* 187 (1983).

<sup>24</sup> Max Stackhouse, *An Ecumenical Perspective on Neoevangelical Politics*, 1 *JOURNAL OF LAW AND RELIGION* 203 (1983).

- Rabbi David Saperstein on Jewish perspectives on the role of religion in the political process<sup>25</sup>
- Joseph M. Boyle on a Catholic perspective on morality and the law<sup>26</sup>
- Douglas Strum on the dignity of objection to military service<sup>27</sup>
- Jerome Hall on biblical atonement and modern criminal law<sup>28</sup>
- Rabbi Dov Frimer on the role of the lawyer in Jewish law<sup>29</sup>
- M. B. Voyce on the legal authority of the Buddha over the Buddhist order of monks<sup>30</sup>
- Daniel Rice detailing the extensive correspondence between Felix Frankfurter and Reinhold Niebuhr<sup>31</sup>

Note just how remarkable this array of topics was and continues to be. Is there anything analogous in any other journal devoted to law and its relation to some facet of our common life? Would a journal of law and business have this sort of scope? Or a journal of law and sports? Or law and art?

For that matter, do we see that sort of ambition in most other forums devoted to religion and law? Not enough. And very much under the influence of the spirit of the *Journal of Law and Religion*. Though it seems to me that something like this breadth of vision and diversity of genres and approaches should be built into any coherent effort to examine law and religion.

The point here, though, is not just the breadth of interests or the variety of topics. What is at stake is not just intellectual curiosity. The founders and editors of the journal were convinced that this kaleidoscope of law, religion, morality, and politics, each taking stock of the others, was essential to reconstituting a healthy polity.

Consider these words from the editor's preface to the first issue of the journal:

In most societies, the institutions of law and religion share a great deal. Both lay claim to authority, both rely heavily on tradition, both surround their processes with solemn ritual, and both involve their practitioners in the explication of authoritative texts usually couched in specialized language. Most important, both are viewed by the societies in which they exist as central to the creation and sustenance of a just, peaceful and orderly community.

In a time of cultural crisis, the institutions of law and religion often collide as they seek to discover what they are in relationship to that crisis and to each other. Both are challenged to reexamine their fundamental assumptions. It is in light of this challenge that scholars and practitioners in both fields have begun to turn to each other in the hope that a better understanding of how they are related and how they interact will contribute to the resolution of that crisis and the greater realization of the common good.<sup>32</sup>

<sup>25</sup> David Saperstein, *Jewish Perspectives on the Role of Religion in the Political Process*, 1 JOURNAL OF LAW AND RELIGION 215 (1983).

<sup>26</sup> Joseph M. Boyle, *A Catholic Perspective on Morality and the Law*, 1 JOURNAL OF LAW AND RELIGION 227 (1983).

<sup>27</sup> Douglas Strum, *Constitutionalism and Conscientiousness: The Dignity of Objection to Military Service*, 1 JOURNAL OF LAW AND RELIGION 265 (1983).

<sup>28</sup> Jerome Hall, *Biblical Atonement and Modern Criminal Law*, 1 JOURNAL OF LAW AND RELIGION 279 (1983).

<sup>29</sup> Dov Frimer, *The Role of the Lawyer in Jewish Law*, 1 JOURNAL OF LAW AND RELIGION 297 (1983).

<sup>30</sup> M. B. Voyce, *The Legal Authority of the Buddha over the Buddha Order of Monks*, 1 JOURNAL OF LAW AND RELIGION 307 (1983).

<sup>31</sup> Daniel Rice, *Correspondence Essay, Felix Frankfurter and Reinhold Niebuhr: 1940–1964*, 1 JOURNAL OF LAW AND RELIGION 325 (1983). I have not even bothered to cite here the book reviews and review essays that also appeared in that first volume of the journal.

<sup>32</sup> Michael Scherschligt & Wilson Yates, *Editor's Preface*, 1 JOURNAL OF LAW AND RELIGION 1, 1 (1983).

Even more evocatively, consider the remarkable “Statement of Essence” of the original Council on Religion and Law, which gave birth to the journal.<sup>33</sup> The authors of that statement also described a “period of crisis in law and values.”<sup>34</sup> The roots of that crisis, they wrote, “are found in the collapse of the values which form the foundations of law, and characterize its authority. In the aftermath of ‘death of God’ theology, and in the midst of ‘death of law’ jurisprudence, religious and legal institutions flounder in their search for fundamental values.”<sup>35</sup> In other words, law and religion were suffering through a common challenge, even in a nation dedicated to their institutional separation: “Religious structures and perspectives have lost the prophetic ability to critically evaluate these laws, and legal structures have lost the interest and the ability to discern underlying values of law which have become vague and confused.”<sup>36</sup>

The authors called for, among other things, a “[s]ystematic inquiry into the fundamental values of our laws, and the source of authority of those values,”<sup>37</sup> and “Full consideration of moral and theological implications of ethical conflicts, which involve legal principles as well as religious values.”<sup>38</sup> In other words, all these topics—law’s account of religion, religion’s account of law, each of their accounts of itself, the exploration of morality—were part of a larger meta-topic, to which the journal was committed.

All this makes sense to me, though my own angle of approach is slightly different. I have always imagined secular law and religion engaged in an encounter with each other, trying to make sense of each other, each trying to overcome the solipsism to which every normative system is otherwise susceptible.<sup>39</sup> That encounter is intercommunal. It is juridical. It is also ethical. These various topics belong together because they reflect each other, they can speak to each other even as each speaks from within its own distinct world view. And we cannot fully appreciate the encounter unless we also study each voice in its own terms.

There is another piece to this, though, hinted at by that last article that I cited—“The Legal Authority of the Buddha over the Buddhist Order of Monks.” Increasingly, the *Journal of Law and Religion*, and continuing in its current incarnation, has sought to consider questions in other countries and across the full range of world religions, including non-Western religions.

Again, this is not expanding the canon for its own sake. Comparisons are how we stretch our minds and our souls. More to the point, the larger story of law and religion should be a story of particularities. Not law writ large. Or religion writ large. But legal systems and religions in all their specificity and complex interactions that, as revealed by rigorous and imaginative analysis, help establish a counter-narrative to the simple pieties of modernity.

I suggest a pair of paradoxes. Secular modernity has often been accused of relativism. That charge does not entirely stick, and the very idea of relativism verges on being incoherent. But regardless, the paradox is that, even as secular modernity at least gestures toward a form of relativism, it is also tempted by an acidic monism.

<sup>33</sup> Council on Religion and Law, Inc., *Statement of Essence*, on file with author.

<sup>34</sup> *Id.*, at 2. The authors referred to this “period of crisis” as a “time of troubles,” quoting Arnold Toynbee’s evocative phrase. For an overview of the idea and Toynbee’s use of it, see Ian Hall, “Time of Troubles”: Arnold J. Toynbee’s *Twentieth Century*, 90 *INTERNATIONAL AFFAIRS* 23 (2014).

<sup>35</sup> Council on Religion and Law, Inc., *supra* n. 34, at 2.

<sup>36</sup> *Id.*, at 3.

<sup>37</sup> *Id.*, at 5.

<sup>38</sup> *Id.*

<sup>39</sup> See, e.g., Perry Dane, *Establishment and Encounter*, in *RESEARCH HANDBOOK ON LAW AND RELIGION* 125, 136 (2018); Perry Dane, *Master Metaphors and Double Coding in the Encounters of Religion and State*, *SAN DIEGO LAW REVIEW* 53, 60, 80–86 (2016); Dane, *supra* note 17, at 477; Dane, *supra* note 4, at 288, 293; Perry Dane, *The Intersecting Worlds of Religious and Secular Marriage*, in 4 *LAW AND RELIGION: CURRENT LEGAL ISSUES* 385, 404 (Richard O’Dair & Andrew Lewis eds., 2001).



At a conference sponsored by the journal some years ago, I quoted John Rawls. Not the Rawls of his great philosophical works, but the Rawls who meditated on his own remaining religious convictions. Rawls, in an essay not meant for publication, gave us a remarkable clue to the deeper convictions of his theory of overlapping consensus: “[w]e need to consider how the relation between God’s reason and moral and political values may be conceived. ... God’s reason is different [from ours] in that its powers far surpass ours. ... Yet God’s reason ... is the same as ours [including that of atheists] in that it recognizes the same inferences as valid and the same facts as true that we recognize as valid and true. Beyond that we may suppose that God’s reason is consistent with ours; so far as we can comprehend a case, God’s idea of reasonableness and ours yield the same judgment.”<sup>40</sup>

The problem with Rawls’s statement of faith is clear. Different religious traditions do understand God, morality, and the world distinctly. Their answers are different. And so are their questions. To imagine that religious and moral reason can at the end of the day only take one form is to live in Flatland.<sup>41</sup>

The *Journal of Law and Religion*, then and now, by welcoming a multiplicity of voices, international and interfaith, religious, and secular, religio-legal, philosophical, and theological, is constructing a three-dimensional constellation of normative worlds.

But, of course, religious traditions face their own challenges making sense of the sheer fact of multiplicity. On the one hand, they tend to assert the reality of Truth with a capital T. On the other hand, one of their greatest practical and theological responsibilities, as suggested earlier,<sup>42</sup> is to overcome the pull of solipsism and the lure of Flatland, to give the state its due and to find dignity in other faith traditions.

I observed at the start of this essay that the *Journal of Law and Religion* began its existence at a time when academia was in general a place of profound religious indifference and significant segments of the larger society were beginning to head in the same direction. The challenge today is different. I have already alluded to our current state of national polarization, which sweeps up politics, culture, and, most depressingly, religion, into competing, dichotomized, teams.<sup>43</sup> This insanity, along with straining our political and constitutional order and souring the national psyche, also distorts the dynamics of the interplay between faith and secularity and the more specific encounter between religion and state that has been the journal’s special focus. This might seem to render some of the journal’s scholarly concerns and underlying convictions quaint or insubstantial. But I would argue the opposite. To be sure, the journal will need to devote some of its attention in these challenging times to publishing rigorous, nuanced, objective, work that confronts and tries to understand the current crisis. But it also needs to stay calm and carry on, to assume that

<sup>40</sup> John Rawls, *On My Religion*, in A BRIEF INQUIRY INTO THE MEANING OF SIN AND FAITH: WITH “ON MY RELIGION” 259, 267–68 (2009).

<sup>41</sup> See EDWIN A. ABBOTT, *FLATLAND: A ROMANCE OF MANY DIMENSIONS* (1884). For an insightful analysis of Abbot’s allegory as an extended meditation on reason, imagination, science, and religion, and their relation to each other, see Scott Taylor, *Reading Flatland*, <https://personal.colby.edu/personal/s/sataylor/ReadingFlatland.pdf> (last visited Feb. 24, 2025).

<sup>42</sup> *Supra* note 39 and accompanying text.

<sup>43</sup> For my own worries on this state of affairs, with a particular focus on its effects on American First Amendment doctrine and references to other sources, see Perry Dane, *Thoughts on the Architecture of Freedom of Religion and Freedom of Speech*, 99 NOTRE DAME LAW REVIEW REFLECTION 247, 248–57, 261, 267–68 (2024). To be sure, as I acknowledge in that article, the division among ordinary Americans on the ground might not be as extreme as we think. See *id.* at 251. Nevertheless, the consequences of radical polarization, even admitting the presence of a more sensible middle, are profound, as the 2024 elections dramatically demonstrated. For an important account of current new forms of Christian nationalism, radically different from the so-called “Christian right” personified by figures such as Jerry Falwell, see MATTHEW D. TAYLOR, *THE VIOLENT TAKE IT BY FORCE: THE CHRISTIAN MOVEMENT THAT IS THREATENING OUR DEMOCRACY* (2024).

the questions that have concerned it for forty years remain not only relevant but vital, that they concern vital questions that religious, legal, political, and cultural communities have been asking for centuries and will need to confront for centuries to come.

The *Journal of Law and Religion* remains vital. It has invited and continues to invite voices from the entire range of religious traditions, legal views, and political and cultural vantage points to publish in its pages. That is a gift to them all and to all of us.

### Acknowledgments and Citation Guide

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