

Duquesne University

## Duquesne Scholarship Collection

---

Hallowed Secularism

The Collective Works of Bruce Ledewitz, Adrian  
Van Kaam C.S.Sp. Endowed Chair in Scholarly  
Excellence and Professor of Law

---

10-2-2009

### October 2, 2009: Higher Law in the Public Square

Bruce Ledewitz

*Duquesne University*, ledewitz@duq.edu

Follow this and additional works at: <https://dsc.duq.edu/ledewitz-hallowedsecularism>



Part of the [Constitutional Law Commons](#), and the [Law and Philosophy Commons](#)

---

#### Repository Citation

Ledewitz, B. (2009). October 2, 2009: Higher Law in the Public Square. Retrieved from <https://dsc.duq.edu/ledewitz-hallowedsecularism/342>

This Article is brought to you for free and open access by the The Collective Works of Bruce Ledewitz, Adrian Van Kaam C.S.Sp. Endowed Chair in Scholarly Excellence and Professor of Law at Duquesne Scholarship Collection. It has been accepted for inclusion in Hallowed Secularism by an authorized administrator of Duquesne Scholarship Collection. For more information, please contact [beharyr@duq.edu](mailto:beharyr@duq.edu).

Title: Higher Law in the Public Square

Date: 2009-10-02T08:33:00.003-04:00

10/2/2009--I have been asked repeatedly how a religious image can have non-religious meaning. Here is an example. A religious symbol pretty clearly conveying a nonreligious message is the cross used to symbolize the ultimate sacrifice at a war memorial on public land. This is the issue, in part, in *Buono v. Kempthorne*, which the Supreme Court will consider in October 2009 and presumably decide during the first half of 2010. *Buono* might be decided on narrow grounds, and it is both a harder case—because there is no indication that the cross is there to honor the dead—and a murky one because of a private land exchange with the government. Nevertheless, the basic issue is clear enough. The cross became a universal symbol of honoring the dead in war in America and the West because most of the soldiers were Christian and many of them wanted crosses above their graves. Honoring this wish was no more an endorsement of Christianity than was having military chaplains in the army. The government was accommodating the private religious wishes of its soldiers. But because military cemeteries thus became the scene of row after row of crosses, the cross became a simple shorthand for honoring the military dead. Think, for example, of the opening lines of perhaps the most famous poem of World War I, *In Flanders Fields*:  
In Flanders fields the poppies blow  
Between the crosses, row on row... . Naturally, given changing demographics and changing religious commitments, the day will come, if it has not already, that the cross is not an appropriate universal symbol of military sacrifice. But it certainly has been such in the past.