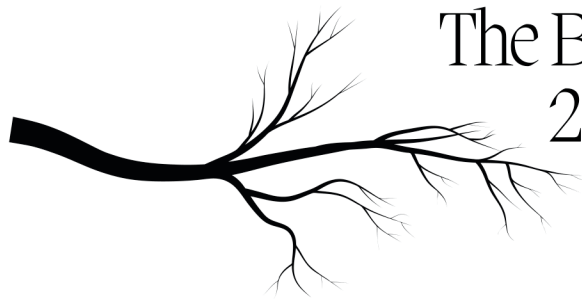




Hallowed Secularism
The Blog Posts
2007–2021
Bruce Ledewitz

Hallowed Secularism

The Blog Posts
2007-2021



Hallowed Secularism

The Blog Posts

2007-2021

FIRST EDITION
PITTSBURGH, PENNSYLLVANIA
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DANA NEACSU
ANNIE AVONDOLIO

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FIRST EDITION, 2023

Once we clear out the brush of
dogmas (...) **Hallowed Secularism**
may just fall out as what's left (...)
for there is reality to the unseen. Remember, the
number 2 cannot be seen. And neither can love.

Tuesday July 17, 2007

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Acknowledgments

In early 2007, after a meal and discussion, my son Ben designed the original Hallowed Secularism blog that this collection sensitively echoes. Ben also wrote most of the Welcome to the blog that I have always felt captured the essence of what I was trying to describe (I wrote the final two paragraphs):

Welcome:

There is a man in America who was taken to church as a child. When he went to a local college Sam spent most of his time with friends, studying, playing games and with nice girls. When holidays came around he went to church with his parents where he liked the preacher's stories but Sam did not believe the parts that insisted that God was the all powerful.

When he took his first job as an accountant Sam was able to live in a nice house and enjoy life around town with his friends. He became engaged to a woman he loved and they had plans for a secure life. As time went on Sam made plans for getting a better job and living a better life.

He moved with his family to a new city where there was a well paying job. When Sam was alone he occasionally had feelings of depression and loneliness even though he loved his family and they loved him. He tried many things like taking his family on vacations and spending more time entertaining his friends but the uplifting benefits of these things would fade quickly.

Sam was very protective of what he had and was very sad when his first child went off to a university. His children visited on occasion, he moved to better jobs and bought nice things to live with. Until the day Sam died he worked to get that better life that America had promised but there was always more that was needed.

Now there is another man in America who was also taken to church as a child. When he went to a local college Pat spent most of his time with friends, studying, playing games and with nice girls. When holidays came around he went to church with his parents where he liked the preacher's stories but Pat did not believe the parts that insisted that God was the all powerful.

When he took his first job as an accountant Pat was able to live in a nice house and enjoy life around town with his friends. He became engaged to a woman he loved and they had plans for an abundant life. As time went on Pat made plans for ensuring that his family would have what they needed.

He moved a few times between jobs looking for one that would pay the bills and was a fulfilling place to work. When Pat was alone he thought about who he was and what the right way was to raise a family. He took his family on vacations, entertained friends and reminded himself constantly that he was lucky to have these things he loved.

Pat had high hopes for his children and encouraged them to take risks while being conscious to do the right thing. He and his wife stayed in the same house and his children came back to visit on occasion. Until the day Pat died he pursued a good life, he love America for providing him the opportunities he had and was fulfilled with his life.

The difference between Sam and Pat is not some psychological difference; it is that Pat believed that there was a universal good within a world of randomness and Sam believed that relationships and objects could make his life good. Sam was a Secularist, Pat was a Hallowed Secularist.

This blog will track the progress of a new way of life in this society, a way of life that may come to be known as Hallowed Secularism. In the short run, I will be writing a book that describes this way of life, at least as I see its future. But in the longer run, others will decide the future of Hallowed Secularism by living it.

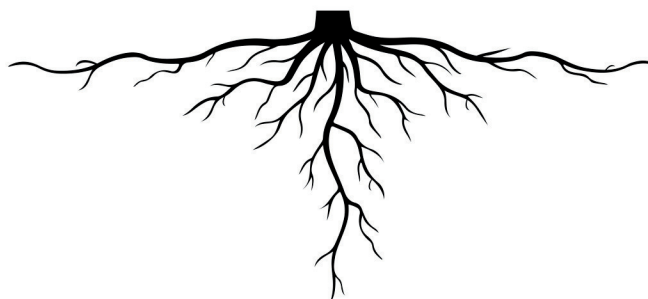
A group of self-announced atheists, such as Christopher Hitchens, is currently trying to push secularism toward atheism and away from religion. But secularism need not be atheism. The secularist rejects many things the religious person holds dear: a traditional God, life after death, miracles and so forth. But the secularist can still have a conception of God or Godhead. The secularist may see a deep pattern in history and may feel a profound connection to all that is. Secularism can be holy. You and I will live that possibility.

So, I want to thank Ben here.

I also want to thank the Law School Dean, April Barton, and Duquesne University President Ken Gormley for the award of the Adrian Van Kaam C.S.Sp. Endowed Chair in Scholarly Excellence. The resources of that Chair have made this project of gathering my writings into one archived space possible.

That project has been exceedingly difficult. The original blog technology is very difficult to work with. In addition, my writings have taken me to numerous non-academic contexts, many of which either no longer exist or never kept accurate records of the writings they published. After many months of diligent work, Anne Avondolio has managed to find and catalogue most of that writing, including the blog posts included in this collection. I want to thank her as well.

But mostly I want to thank our law librarian, Dana Neacsu. In the face of my skepticism that this project could happen, her irrepressible positivity kept things moving forward and ultimately saw the project through to completion. I am grateful for her help and guidance. This beautiful book would not have been possible without her.



My path to Hallowed Secularism

What the reader has in this collection of the Hallowed Secularism blog from 2007-2021

are the reflections of a Pittsburgh law professor on religion, secularism and American public life during those years. These are not diary entries exactly, because I knew the posts were available online to be read. But they are not columns or op-eds either, because I also knew that they were not likely actually to be read, at least not at the time. So, what emerges is quite personal.

To set the stage, by 2007, the New Atheist wave was cresting. Christopher Hitchens' best seller, *God Is Not Great: How Religion Poisons Everything*, was published that spring. In a sense, I was part of that wave. Because I lost faith in God, I had left behind my deep commitment to Judaism in the early years of the new century.

As you can tell by the title of the blog, and of the project it represented for me, I had already decided that the New Atheism was a destructive dead end. Hallowed Secularism was a term I borrowed from a talk given in E.L. Doctorow's 2000 book, *City of God*, by a liberal rabbi, Sarah Blumenthal, who says we must abandon "the fantastic elements of religion" but maintain, "in its numinousness," a universalist ethics she calls hallowed secularism.

I knew instinctively what the problem was going to be—it concerned how the Death of God was being received as nihilism—but only gradually, over the blog period, developed the resources and thinking through study with my friend and mentor, Robert Taylor, to address what became the crisis in American public life.

The blog post of June 27, 2007, shows my thinking at that time. That thinking led to three books in quick succession. The first, *American Religious Democracy in 2007*, challenged secularism's hostility to religion. In fact, religion was needed to provide depth to secularism. The second book, in 2009, *Hallowed Secularism*, set forth the outline of a new, more spiritual—more Sarah Blumenthal—secular approach. The third book, *Church, State and the Crisis in American Secularism*, described the crisis in meaning that was already clearly present in 2011, four years before the political advent of Donald Trump.

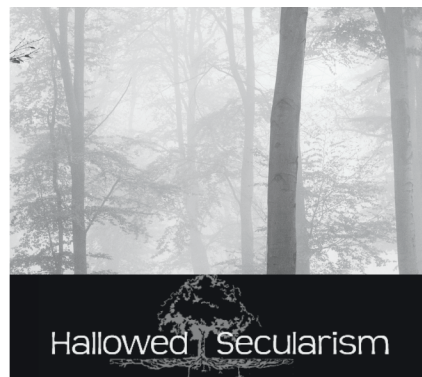
By the time the blog ended in its original form in 2021—I had by that time begun writing more formal columns, first in the *Pennsylvania Capital-Star*, and then later in various newspapers—I had written my remedy book: *The Universe Is on Our Side: Restoring Faith in American Public Life*.

But the blog entries are more than these larger trends. The blog is filled with my day-to-day observations and musings.

In 2007, Google allowed anyone to create a blog like this. And, I suppose I intuited even at the beginning, that if I kept it up, future historians might find the blog to be of interest as a record of events—something like *The Diary of Samuel Pepys*.

I have not been able to review the blog entries until now because the technology of the time was so awkward to use. So, we will all find out together how reliable or misguided I was over these years in my commentary. I know I got the main points right. In 2007, I expected huge problems from the popular realization of the Death of God. That is precisely what happened. I also knew that something new—secular but religious—was needed. It still is.

Bruce Ledewitz. November, 2023



Bruce Ledewitz's Hallowed Secularism blog was housed at <http://www.hallowedsecularism.org> from early 2007 until 2021 when it was moved to <https://bruceledewitz.com>.

The original Hallowed Secularism logo, features a tan tree-of-life on dark sienna background.



POSTS:

2007

Title: The Growth of Hallowed Secularism

Date: 2007-06-08T17:03:00.000-04:00

6/8/2007 This blog will track the progress of a new way of life in this society, a way of life that may come to be known as Hallowed Secularism. In the short run of the next few months, I will be writing a book that describes this way of life, at least as I see its future. But, in the longer run, others will decide the future of hallowed secularism by living it. There are many religious people who live holy and fulfilling lives. But there are others, like me, who do not fit, or do not quite fit, any of our religions. Such people are secular by definition, at least in popular understanding, but they are not necessarily atheists. Is it possible to live a life of holiness without any of the religions? The easy answer is yes, of course. But, believe me, it is not at all easy even to imagine such lives. Much less live them. Our lives are easily dominated by the power of the everyday, by the mall and the news and the media, and money. A grubby and unfulfilled life. The same sort of life lived by most religious people. But imagine a different life. A life of power, awe and mystery. The sort of life the Bible promises. A taste of the world to come. But not one run by the conventional wisdom of what our religions have become. It is a little hard to believe, but it is possible.

Title: Hallowed Secularism's Relationship to American Religious Democracy

Date: 2007-06-13T17:23:00.000-04:00

6/13/2007 What is the connection between this work, Hallowed Secularism, and my recent book, American Religious Democracy: Coming to Terms with the End of Secular Politics (Praeger 2007)? They seem to be inconsistent. The book argues for much, much greater openness to religion in America's public square, whereas Hallowed Secularism foresees growing secularism world-wide, including in America. This likelihood of growing secularism was one of the points that Jeff Maurone made in criticizing American Religious Democracy on his blog and in an e-mail response to me. Here is what I sent back to him: * * * * You would be very surprised to hear that I agree completely with your fundamental point, that secularism is the rather inevitable trend. To clarify [American Religious Democracy's] point, we have thrown off certain legal, political and cultural constraints on religious discourse in the public square. These constraints were recent and artificial. They had no business in a genuine democracy. Now that they are gone, or going, political life will be, for a long while here in America, much more religious. But the trend of globalization is not changing and it introduces world-wide secular culture, differently pitched in different religious civilizations. My next book, which I am working on now, is tentatively to be called, Hallowed Secularism (a phrase I steal from Doctorow). It introduces religion as quite a different phenomenon than merely the dogmatic religions of Christianity, Judaism etc. Religion is the source of hope both personally and historically, that is socially. No culture, including a secular one, can do without it. American Religious Democracy sees the political left as currently forced to reconsider the language, concepts and essence of religion. That will be good preparation for this new secular world in which transformation and repentance will be more needed than ever, and harder to find.

Title: Hallowed Secularism: No Big Deal?

Date: 2007-06-15T07:46:00.000-04:00

6/15/2007 As part of the publicity blitz around my book American Religious Democracy, Dave Overton of Newman Communications (note to authors, if you need a publicist, Dave is great) placed an op-ed piece this week, first in the Baltimore Sun and then, today, a reprint in Newsday. This was a coup for me. But I am embarrassed by the headline chosen by the Newsday editors: Dem's Finding God: No Big Deal. It's not that they were wrong. The piece makes the valid point that the new God acceptance by the Democratic Presidential candidates, and its later effect on judicial nominees, will not change that much. Supreme Court caselaw requires non-coercion and non-sectarianism as well as non-endorsement of religion, so that even if government endorsement were allowed, most case outcomes would not change. Also, acceptance of God by candidates personally and in the public square does not necessarily mean abandoning support for abortion and gay rights. But I overstated these points. This new openness to God by the Democrats has two important consequences. First, it signals the acceptance of American Religious Democracy, as my book suggests. When that translates into constitutional doctrine, the Wall of Separation per se will be seen to be down. Outcomes of cases may not change much, but the tone of caselaw will change. I'm not sure a world looks like when Government can promote religion openly, albeit without coercion or sectarianism, but it won't look precisely the same as today. Second, the embrace of God by the Democratic Party begins the process through which Hallowed Secularism begins to emerge. The 2008 Presidential campaign will be seen in retrospect as the turning point through which secularism began to modify its hostility to transcendence. The belittling of religion by an author like Kevin Phillips and the embrace of atheism reflected in authors like Daniel Dennett, Sam Harris, Richard Dawkins and, recently, Christopher Hitchens, will begin to lose its audience. Openness to God is not embrace of bad religion or bad policy. Instead, it reflects a hunger for hope and beauty. And it is by all means secular, that is, this-worldly. If you don't have religion, in some sense, all you have is advertising. The choice for this culture is God or the market. The fact that you and I don't believe in "God" is irrelevant, the beginning of thinking rather than its conclusion. As Aquinas said, God doesn't exist. God is beyond existence.

Title: The Theologians of Hallowed Secularism

Date: 2007-06-17T07:40:00.000-04:00

6/17/2007--My friend and colleague Robert Taylor has been introducing me to the thinking of major post-war, that is after WWII, Christian theologians. The list so far has included seven names: Bernard Lonergan, Karl Rahner, Edward Schillebeeckx, Jurgen Moltmann, Wolfhart Pannenberg, Johann Metz and Eberhard Jungel. So far I know a little about some of these men [and I am well aware that they are all men--the list was not meant to be exhaustive]. You may wonder how Christian theologians, especially ones as orthodox as these, could have much to say to Hallowed Secularism, which aims at living full lives outside the Christian/dogmatic religious traditions. The answer is that Christian theology after the war was intensely concerned with secularism. After all, this secularism occurred primarily in societies that had been Christian, so something about Christianity made secularism possible. In addition, in the West, meaning here Europe and North America, and increasingly world-wide, the Church would have to share social space and come to grips with with secularism. In other words, secularism would be the Church's context and challenge. So, for some of them directly and intentionally, while for others indirectly and by side-effect, these thinkers define what is shared and what is not shared by Christianity and secularism. Their ability to understand the theological foundations of secularism is far greater than any defender of secularism whom I have read. You and I need to know them well.

6/19/2007—What is the relationship of hallowed secularism to our religions, especially Christianity and Judaism?

Secularism must ask deeper questions about the nature of reality than it has until now. We must ask what is real? What is true? How can human beings live abundantly? The secularist may find answers to these questions that are similar to those of our religions. In fact, I think that will be the case.

This is not a matter of believing something to be true, but of investigating to find out what is true. Secularism must be empirical in that it asks what is reality, really?

Christianity and Judaism say they do this as well. And sometimes they do. Certainly the authors of the Bible were describing the fundamental truth of reality as they saw it.

What if the issue for faith is not belief in anything at all, but instead is trust? The temptation of unbelief for Jesus was not that he might not believe in God, but was his cry, Why have you forsaken me? On the cross, Jesus was tempted not to trust reality. The secularist could be tempted in a

similar way. The believer is tempted to deny that behind reality there is the loving power of God always intending my good. The secularist is tempted to deny that existence is meaningful. Dogmatically these are very different. But I am not sure they are different in a fundamental sense. Some Christians say that there are preconditions to salvation that the secularist does not fulfill. If so, the secularist is damned. But we will not know this until after death or on the last day. There is no reason to begin at that point, with dogmatic differences, when we can begin with shared commitments. All this may sound like hallowed secularism is a way station on the road to one of our religions. It could be that for some. Or, it may sound like hallowed secularism is a kind of reinterpretation of biblical religion for a scientific/naturalist age. It is that in part for me. But what hallowed secularism is most basically is the answer to the question, what next?, after one says "I don't believe in God".

Title: What Makes Hallowed Secularism, Secular?

Date: 2007-06-20T10:35:00.000-04:00

6/20/2007--After reading the blog entry for 6/19/2007 I am tempted to ask, since this writing is so God-intoxicated, what makes secularism, secular? The answer is not that the secularist does not believe in God, because what is meant by that statement is part of the work that hallowed secularism does. The secularist comes to see that what he or she does believe about reality is what some religious believers call "God". So, the secularist and the believer may agree about God, in part. The secularist begins and ends with this world and this world very much in the state in which we know it ordinarily. That is not the same as materialism since the world as we ordinarily know it includes many intangibles, like ecstasy and the number 2. But secularism does exclude in principle happenings outside the usual scientific laws. This is different from the believer like Maimonides who concluded that God chooses to act within physical laws. For the secularist there are no miracles in principle and if we want to know what the physical laws of the universe are, we turn to science rather than religion. This insight does tell us something about the nature of God because there could not be the sort of God who has the capacity to do things in the physical world outside its physical laws. The deeper difference between secularism and biblical religion, however, is not the issue of miracles, but what this difference says about death. In secularism, death must be the end of existence and must be unalterable. And somehow that blunt fact must be consistent with the nature of God. I will add here that some secularists, including me, regard death as positive rather than negative, but since there is nothing we can do about death, there will be secularists on both sides of that issue. This view of death is obviously inconsistent with Christianity, in which the victory of God in Jesus overcomes death. It is inconsistent with any notion of a new age after resurrection or any apocalyptic belief. Strangely, it is not inconsistent with the Old Testament, in which Abraham and Moses both die (and mostly everyone else) and are never promised any sort of eternal life beyond the blessing of their descendants. I don't want to make too much of this, however, as if this view of death were a difference between Christianity and Judaism. By the time of the end of the Old Testament period, the prophets were using messianic imagery, which of course is where the New Testament gets it from. The Pharisees of Jesus' time had already linked resurrection of the dead to the advent of the Messiah, which is why Jesus is the "first fruit", and not the exception. Therefore, the end of death is a Jewish concept. Plus, in Genesis itself, death enters the world as something quite unnatural, which one would expect God eventually to fix. So, the secular view is not that of Judaism, which on this crucial point is akin to Christianity. If we believe that death is the end and will always be the end, we are secularists. It remains to be seen, however, what kind of secularists we are.

The 21st century began in the shadow of a reawakened Islam, with its fanatical side symbolized by the destruction of 9/11/2001, and a resurgent Christianity, each resisting modernity in its way. But, by 2050, the Israelis and Palestinians will have found a way to share the Holy Land and somewhere a liberal democratic Islamic state will have emerged. Meanwhile, humanity, more united than ever by the environmental crisis, by a global economy and by technology and more open than ever to the images of science rather than religion, will begin a long, slow turn away from religion to secularism. The year 2100 will dawn very differently from 2000. Long before, Presidential candidates in America will have ceased hesitating about global warming and evolution. But what will secularism have to offer to the people of the world? If you look at the new atheists of today and their writing, all you really get is hostility to our religions. There is nothing there about how to live abundantly. The problem is that the world's wisdom is by and large contained in its religious traditions, as Huston Smith reminds us. There is no such thing as living by "reason," which is what secular writers sometimes suggest. Our religions also say they live by reason. And when a real question comes up, like whether an embryo should be protected as human, or should be used for the benefit of others, scientific reason has little to say. Biologically, after all, the embryo is obviously a new, individual human being. To serve the people of the world, secularism will have to get over its juvenile and unthinking hostility to religion and embrace what it can of religion. This will mean each religious civilization's secularism embracing its own tradition. In the West, that means Judaism and Christianity. Thus, hallowed secularism.

Title: Hallowed Secularism and Our Religions

Date: 2007-06-27T11:34:00.000-04:00

6/27/2007--One of the tasks of Hallowed Secularism is to learn from the collected wisdom of our religions. This will help wean secularism from its current unthinking hostility to anything religious. The recent atheism books proclaim hostility to anything pertaining to God. Yet many people who think they agree with these books are also looking at, and are influenced by, religious traditions associated with Buddhism and Yoga. It is not religion that is bothering secularists but two other matters: some of the teachings in some of the religions, such as the subordinate role of women, and the total commitment that people have to their own religions, which makes something like suicide bombing possible. Hallowed secularism should be looking instead at what all, or almost all, of our religions teach. The sage Frithjof Schuon wrote: "Our starting point is the acknowledgment of the fact that there are diverse religions which exclude each other. This could mean that one religion is right and that all the others are false; it could mean also that all are false. In reality, it means that all are right, not in their dogmatic exclusivism, but in their unanimous inner signification... ." Granted, Schuon meant something different from religious "teachings" here, but this can at least be our starting point. We could begin, for example, with the golden rule on the one hand and the sense, on the other, that there is something more to life than what we can taste and see. As to the second point, that religion allows people to do crazy things, let me point out that it was not religious people who invented and used the atomic bomb, nor religious people who organized Auschwitz. Nor, for that matter, did the killing of WWI have anything to do with religion. I am not defending the violence of religion. Rather I am suggesting that these comparisons between the secular person and the religious person are not useful. The statement, we would be better off if there were no religion, is meaningless. It is meaningless because it cannot happen—people are religious by nature--and because we cannot clarify our terms well enough to produce evidence on either side.

6/28/2007--It is revealing that in E.L. Doctorow's novel, *City of God*, the Episcopal Priest converts to Judaism, while the Jewish rabbi looks to hallowed secularism. Why is this? Why do these two move out of their traditions? Conversely, at an earlier point in the novel, another character is looking at Pem's (the Priest's) books—"I put aside a small stack of his guys I have to read: Tillich, Barth, Teilhard, Heschel. That's about right, he said, after glancing at my choices. But as you will see, all these brilliant theologians end up affirming the traditions they were born into. Even the great Kiekegaard. What do you make of that? I mean, when your rigorous search for God just happens to direct back to your christening, your bris..."It is as if Doctorow is telling us not to stay where we began. But the novel really draws the opposite conclusion: that we are always where we began. The Priest remains a Priest; the rabbi, a rabbi. They just look at their traditions from a different angle. Or perhaps I should say that their starting points form the lenses they now use to look at something else. Hallowed Secularism will be formed of people who came from somewhere else. This is because Hallowed Secularism is not itself a religion. It is instead the way for people who cannot fit into their original religious traditions to remain religious, to remain faithful. But they could of course do the opposite. They could remain in their childhood religious homes and practice a very liberal or unusual form of their Judaism or Christianity. Some people received so little religious formation that this is problematic. But others, like me and like Doctorow, could stay and become Heschel Jews or Tillich Protestants. Why not just do that? Maybe the problem is that this is not sufficiently universal for the new age. The story of God must now unfold on a completely world-wide stage. The two religious traditions I know that seem to be on to this need for universality are Buddhism and Catholicism. You may wonder about the Catholic Church in this regard. But then you probably have not read *Truth and Tolerance* by Cardinal Ratzinger before he became Pope.

Title: Hallowed Secularism and Current Approaches to Gnosticism

Date: 2007-06-29T15:34:00.000-04:00

6/29/2007--I have been warned that Gnosticism is an enormously complex phenomenon that I frankly do not understand well enough to comment on. Fair enough. But I would like to note three aspects of the recent work of Elaine Pagels (The Gnostic Gospels and Reading Judas and much else): the political choice of the canon, the seeking of God within and the role of spirit versus body. As to politics, a review of Pagels on Amazon states, "Pagels argues that Christian orthodoxy grew out of the political considerations of the day, serving to legitimize and consolidate early church leadership." I'm sure this is fair because of the criticism she makes in Reading Judas, that is, the Gospel of Judas, that it represents a dissent against the "single, static universal system of beliefs" of official early Christianity. This view by Pagels made a tremendous impression on a character in City of God: "It was all politics, wasn't it?" she asks me. "...Yes, I sez to her. ...So it's all made up, it's an invention. ...Yes, I sez, ...[a]nd you know for the longest time, it actually worked." But the mistake here made by Doctorow—well, by Pem—is to imagine that in human history, the Holy Spirit is not at work. Doesn't God work in history? Or, if you prefer, doesn't history have a shape? History looks like mere contingency and will but it isn't. Slavery could not have endured, as Jefferson saw. I will have to return to the themes of inner and outer and the role of the body.

7/1/2007--In the last blog, I said I would return to two other themes of the current interest in Gnosticism. The prior blog concerned the politics by which the canon of the Bible was set. The struggle over what books to include should not be viewed as mere power politics, as Elaine Pagels suggests, but may reflect the deep working of the divine spirit in history. Pagels also suggests that believers should be encouraged to look for God within themselves, without churches or clergy. This is more or less a quote from her new book, with Karen King, *Reading Judas, The Gospel of Judas*. There are two themes here, one of the God within and the other, anti-church hierarchy. As for the first, given human indifference, violence and hatred, what reason do we have to believe that the divine spirit lies within human beings? Something like grace touches us, sometimes, to be sure, but we are at least a battlefield of good and evil. Pagels would lead us to see ourselves as divine, which is partly what the Bible attempts to turn us from. As for the second point, concerning hierarchy, Pagels seems to have the typical liberal antipathy for the Catholic Church. I think we can all learn a lot from what Pope Benedict has been writing and saying. Authority that comes from the speaker rather than the role is not tyrannical. The other and deeper Gnostic theme is that, as Pagels explains, Gnostic Christians rejected the Jewish Christian, and later Orthodox, position of the resurrection of the body. Gnostic Christians believed that eternal life is lived through the spirit alone and that Jesus was not reborn in the flesh. This is not an esoteric debate, for in this Gnosticism the body and the world are suspect. Christianity has always had this Gnostic tendency, as the emphasis on heaven shows, and it is this very tendency, championed by Pagels and others, that has helped lead to the environmental crisis of today by denigrating this material home of ours. The Bible, in contrast, is earth not heaven. The Kingdom is here and among us. This is the only home we have and we are charged to live well in it.

Title: Hallowed Secularism and the Name of God

Date: 2007-07-06T09:10:00.000-04:00

7/6/2007--In the novel, *City of God*, by E.L. Doctorow, which, regular readers of this blog know, forms the foundation and guides the development of Hallowed Secularism, the rabbi Sarah Blumenthal gives a sermon, a d'var Torah, based on Exodus 19-24. This portion of the Torah is the setting for the revelation on Sinai, including the Ten Commandments. After describing the new and unique "ethical configuration for human existence" that Sinai expresses, Sarah refers to the "human scriptural genius" that formulated the Commandments. Then she continues, "We could make the case then for God's presence after all in the humanly written Bible. The Lord, blessed be His name, as my Orthodox colleagues say [she smiles]...being what impels us to struggle for historical and theological comprehension." Sarah also refers to God as "the Creator". The "smile", the self-conscious smile, perfectly sums up the spiritual crisis of liberal religion in America, especially Judaism. As I heard a rabbi in synagogue say earlier this year, "God, whatever we mean by that... ." This crisis will be fatal unless solved. The problem is God. But it is necessary to formulate the question that would solve the problem. The question for someone like Sarah is not the one we think it is. The question is not whether God exists. Sarah is not a nihilist. She is not a materialist. She believes that the Old Testament--the Torah--tells the truth of reality. So, we may say Sarah is a believer in God. God exists. The question is, what is the nature of God? Specifically in the context in the novel, the question is, whether God is the sort of [X] about which one may legitimately say, "May his name be blessed". The crisis that the smile expresses is Sarah's unwillingness or inability to formulate the question cleanly and begin to struggle with it. This makes her reference to "the Creator," suddenly with no ambivalence at all, ridiculous and unconsciously self-serving. What Sarah probably believes about the nature of God is that God is not a being. And she probably believes that God does not act in ways that set aside normal, physical, that is, scientific, laws. In fact, God probably doesn't "act" at all. That is the wrong word to use about God. But all this is a beginning, not an end. We must push beyond what we think we know. We must keep the question of God open and in front of us, never imagining that because we are secular, we are atheists. None of this is new. Thomas Aquinas has already pushed ahead of us and waits to be of help. In *The Names of God*, Aquinas asks, "Whether this name God is a name of a nature, or of the operation?"—the very question Sarah is trying to ask.

7/8/2007--There is a popular book, in fact it has been a best-seller, called *The Secret*, by Rhonda Byrne. The premise of the book is that there is a secret wisdom that can satisfy our desires, which has been hidden by the masters and is now revealed for the price of the book. Not surprisingly, the secret turns out to be ridiculous—a law of attraction, so that if you think about a car you get a car, as the reviewer Julia Rickert put it. (That is a fair summary, both of the method and the goals in the book). But the problem with the book is not that this secret method to happiness is not true, or that the goals Byrne sets forth are shallow and selfish, but that people are looking for a secret to life at all. I suppose people know that there is no such secret, just as we know that the key to weight loss is to eat less and exercise more, though no diet book best seller is going to say that. So, what is the key to fulfillment in life? Hallowed secularism will have to work out both the personal and the social life. Social life means building just social, economic and political arrangements. Personal life includes how you and I and our families should live. Our religions already teach us their answers to social and personal life. For the personal life, Jesus, for example, tells us to love God and our neighbor (and our enemy for that matter). If that is not enough for us, we are to sell all we have, give the money to the poor, and follow him. But Hallowed Secularism does not have the religious option. We cannot love a God in whom we do not believe and we cannot follow Jesus, at least in any obvious way. But there are masters who can help us translate the wisdom of our religions into secular, or at least, accessible terms. One terrific recent example is *My Grandfather's Blessings* by cancer physician Rachel Naomi Remen. In contrast to *The Secret*, Dr. Remen teaches that we belong to each other and that serving others heals us. She learned this from her grandfather, a spirit-filled orthodox rabbi and master of Kabbalah. Hallowed Secularism has to be open to messages like this or secularism will lead us to emptiness and despair. The question is, can secularism sustain such lives? After all, Remen is here a parasite, living off the accumulation of soul-wisdom that comes from living a life of Torah (or Gospel). Who says that such wisdom can live apart from the traditions that created it? And who says that one can live such wisdom apart from study, worship, prayer and thanksgiving in holy time and holy space? That is our challenge.

Title: Hallowed Secularism and Harry Potter

Date: 2007-07-12T08:06:00.000-04:00

7/12/2007--I am a fan of the Harry Potter. So, I will be seeing the new movie, Harry Potter and the Order of the Phoenix, and reading the last installment, Harry Potter and the Deathly Hallows. While I did not choose the title Hallowed Secularism to trade on the Potter popularity, there is a relationship between Harry's world and this one. Magic in Harry's world is everywhere, but the Muggles, the everyday people who are not members of the community of magic, cannot see it. That is what most of us are like most of the time. And it is why perhaps the most unbelievable thing Jesus said was that the Kingdom of God is among us. Since in Hallowed Secularism there is no heaven and no after-life and no promise of a Messiah, this world is it. But it is a world of magic all the same.

Title: What Makes Hallowed Secularism Hallowed?

Date: 2007-07-17T13:05:00.000-04:00

7/17/2007--How can secularism be “hallowed”? This would seem the crucial question. It would also seem to be a contradiction in terms. Surely secularism cannot be holy unless you think humanism can be holy, which would be a pretty tough sell after Auschwitz and Hiroshima.

We seem to have only two choices: God—a transcendent being outside space and time—or man as the measure of all things. We cannot believe that such a God exists and man on his own is a horror. So we seem stuck.

Some people find the answer to this dilemma in nature. They worship, or purport to anyway, the sun or the earth and its spirits. Perhaps I have just not seen this done properly, but for me it is not an option. Nature can be just as cold as the human heart, after all.

What is needed is a source of power and order and beauty outside humans themselves. This is what Our Religions give us. How can we have this without God?

To put the matter bluntly, human beings can encounter the mysterious Other, the transcendent, personally and historically.

Personal accounts of spiritual experiences are common. Here is a beautiful example from Dr. Rachel Remen’s book, *My Grandfather’s Blessings*:

A neighbor, a down-to-earth and practical person, shared...an experience with me. . . She had been cleaning her house...when suddenly it was as if her life were passing rapidly in front of her and she became aware of something she had not recognized before, that there was a coherence and direction that ran through it like a thread. ...Though she had never experienced this direction before, it was familiar to her. It was as if she had been following something unseen for many years and she had not known.

* * *

As she stood in her kitchen...she became deeply certain that what was true of her personally was also true of life in general. Everything was unfolding according to a direction. It underlay all existence, binding it all together. For a heartbeat, it seemed to her that she could experience this directly. “A steady unseen force, like a wind,” she told me.

This reported experience might be called an encounter with God by the religious believer. But that is not how this woman experienced it. Nor am I suggesting that Hallowed Secularism should be charismatic, seeking personal and emotional encounters with the unseen. Rather, I mean that Hallowed Secularism acknowledges the depth of human life and its meaningfulness. That mystery of human life must be authoritative, not subject to my feelings and choices.

This sense of oneness with all reality is a common theme in non-“religious”—I just mean non-dogmatic--thinkers as diverse as Eric Voegelin and John Dewey. In fact such a sense of cosmic unity may underlay all our religions. Thus, the religious leaders in human history have a great

deal to teach us about the nature of reality. Hallowed Secularism must be open to such teaching.

This is not the same as a God who is a personality with a will, plans and actions. Yet, it is not atheism either.

This sense of depth is not just a matter of personal experiences. There is also public consciousness of transcendence. In order to recover from consumerism and the flatness of American life, this sense of depth must be present in public life as well. This means, on the one hand, the end of the scorn secularists now exhibit toward anything “religious”. We are not dealing here with superstition or the supernatural, but with a broader sense of human life. Secularists must be open to that.

The public sense of depth also means a new appreciation of the power of justice in history. Abraham Lincoln understood the Civil War as God’s judgment for the sin of slavery. Thomas Jefferson feared for such a civil catastrophe out of the same concern for God’s judgment. I feel that way about global warming.

Reality is structured in such a way that there are consequences for national injustice. Mistreat the poor and your society will end up in ruin. This is what the Hebrew prophets taught us. Hallowed Secularism must be open to this message, too.

Once we clear out the brush of dogmas that conflict with the natural laws of the universe: resurrection, heaven, hell, messiah, apocalypse, reincarnation and a being called God, Hallowed Secularism may just fall out as what’s left. What’s left is neither materialism nor rationalism. It’s beyond both. For there is reality to the unseen. Remember, the number 2 cannot be seen. And neither can love.

Title: Secularism's Indifference to Religion as the Task of Hallowed Secularism

Date: 2007-07-20T08:16:00.000-04:00

Upon reading the welcome question in this blog, "Wouldn't you like to live your life abundantly?" my daughter told me that her friends wouldn't read any further. It sounded too religious. Her friends, she said, had no interest at all in religion.

That is my impression as well, in my dealings with young people. Many seem quite indifferent to religion and religious issues. My first task is to awaken interest.

Indifference is something new in secularism. John Dewey would be considered one of the great American secularists. Yet he was very familiar with the teachings of Christianity and quite sympathetic. Breaking with Christianity, to the extent Dewey really did break with Christianity, was difficult for him. Dewey could not possibly be considered indifferent to religion.

I may be wrong, of course, about this trend among young people. My impression may be a function of the young whom I know and where I live and so forth. This book, after all, is not social science and I am not trying to prove things. If this indifference hasn't yet taken root, however, it soon will. I have a hypothesis about why that is.

No one would dispute that young people in America are more secular than their parents and grandparents. According to a March 2007 Pew Research Center report, 19% of those born after 1976, that is roughly 30-years-old and under, describe themselves as "atheist, agnostic, or no religion." This compares with only 5% of those born before 1946 and 11% of those born between 1946 and 1964. In another Pew Research Poll, among those 65 and older, 44% considered the Bible the "literal word of God" versus 29% among those 18-29. Conversely, 13% of those 65 and older, only 13% viewed the Bible as "not [the] word of God", compared to the 24% of those 18-29, who felt that way. Nor is this just a matter of young people being more secular and growing more religious as they grow older. The 2007 Pew report concluded that "the number of seculars within each generational group is about the same in 2007 as it was 10 or 20 years before. Thus it appears that people have not become less secular as they have aged."

Of course, those numbers actually show that America is a very religious society today and is going to continue to be so for a very long time. That is why Presidential candidates in 2008 are emphasizing their belief in God. America is a religious democracy and is going to stay one for the foreseeable future.

My point is not how secular we are at the moment, but rather that secularists are now sufficiently numerous that they can no longer be considered a fringe group. The importance of that change is that for some young people, religion no longer sets a framework of meaning. For someone like Dewey, religion always did that even if the religious message was rejected. There is now, for the first time, a substantial group of secular young people who never learned much at all about what religion is about and do not feel they are lacking anything because of that.

That is the sort of person who hears the term "abundant life" and feels uncomfortable. Religion for such a person is not even a mystery. This shortchanges such people more than they know.

Title: Hallowed Secularism and the Four Sons

Date: 2007-07-22T09:45:00.000-04:00

7/22/2007--This blog entry continues the consideration of secularism's indifference to religion as a potential impediment to the development of Hallowed Secularism. I will deal with the hostility of secularism to religion in other entries. Here, I am dealing with the fact that many secularists, especially among the young, have no interest in religion and don't know much about it. The context here is akin to the story in the Haggadah, the collection of stories, blessings and prayers that Jews gather around at home on the evening of Passover. The story of the Exodus from Egypt is to be told and, it is said, there are four types of sons who may hear it (yes, the Haggadah speaks only of sons, but we may forgive its antiquated language and substitute a new round of family members): the wise son, the contrary son, the son who is simple and the son too young to know how to ask a question. The hostile son we will deal with presently. Here, I want to address the simple son with questions. Look around you. Why is there something rather than nothing? You may give an answer from astro-physics. You may say, It's the big-bang. Everything we see, everything we know, and much that we cannot see and cannot know, just sort of happened out of nothing, one day. But does this not awaken in you a sense of awe? Does it not bring forth in you a sense of reverence for the mystery of existence? If it does, you are not so indifferent to religion after all. But, perhaps it doesn't. Perhaps you are dull to such feelings. Then I will ask you, what about the love you feel for your wife or husband or child or parent? Don't these feelings awaken in you amazement in the presence of the power of love? Don't you wonder if there is not something greater that you might love? If you tell me these feelings of love have a biological purpose, I will ask you whether you are more than a biological purpose? And if you tell me you are not, I will ask you what the biological purpose is of your wondering whether you are more than a biological purpose? Perhaps you don't love anyone and no one loves you. I hope that is not the case, but there are such people. I will ask you then, how do you know how to live? If you tell me you seek pleasure, I will tell you that the pleasure you seek pales, eventually, if it has not already. You are not made for that kind of pleasure. There is a greater pleasure awaiting you. But no one can experience it who does not love. Is anyone in the room still indifferent?

Title: The Sources of Secularism: Science, Globalization and Our Religions

Date: 2007-07-24T10:02:00.000-04:00

7/24/2007--A massive shift is occurring at the beginning of the 21st century in which millions of people are moving away from the religious traditions of their cultures into the technological/commercial inferno we can call secularization. By and large this is not a good thing for people. Yes, many people are liberated from barbaric traditional practices and gross superstition. And secularization brings medical marvels and sometimes economic prosperity. But not always and at great cost.

The cost does not really matter because the trend seems to me to be permanent. In fact the trend seems to be growing. Secularization did not begin in the 20th century and it will not end in the 21st century. I imagine its victory, in the sense that secularism will no longer seem even to be significant--it will just be the way things are--sometime after 2100.

What makes the process of secularization seem inevitable is that it works at the level of what is believable. According to the political philosopher Eric Voegelin, epiphanies—revelations of the truth of order—occur throughout history, from Genesis through Buddhist teaching to Christianity, and in many other manifestations. Each new revelation succeeds to the extent that its symbols express the “ ‘common sense’ of a period, that is, its ability to speak not in a distant-alien idiom but with an ‘authority commonly present in everybody’s consciousness.’ ”[1] Secularism today captures our common sense of how things are. This is the same idea that Pope Benedict intends when he writes that the heart of the Christian message--that God allowed the healing of man through the death of his Son—“no longer seems plausible to us today.”[2] It isn’t so much that we deny these as that they don’t seem possible and therefore do not really challenge us at all.

The unreality of Our Religions is what has happened to me and perhaps to you. At one time I was a believer--more or less--a liberal Jew. Then, at a certain point, it took too much effort to listen to words that could not be true. And the worst part of this process, the part most revealing of how cut off you are from your tradition, is that you don’t even feel you have lost anything. It is true that Soren Kierkegaard wrote of “the leap of faith” as the basis for religious life and I suppose that the message of salvation has always seemed unlikely. Nevertheless, I simply can no longer believe, at least not in the old way.

Our Religions do not disappear in this process. In fact, they remain robust, first in opposition to secularism and then later in dialogue with it. Most people will probably remain believers in every generation. The deterioration of religious civilization takes a long time. I am certain that in the period after 2100, when I have said the triumph of secularism will be complete, Judaism, Christianity and all Our Religions will still be present and viable to many. But they will be secondary to the culture.

This event, the displacement of Our Religions, although it will take place gradually, will signify a new era in human history. Whatever you may think of secularism today, I assure you that religion is still primary. The religious struggle against secularism is still ongoing. When it ends, the world will look quite different.

[1] Fred R. Dallmayr, *Margins of Political Discourse*, 77 (SUNY Press 1989)(quoting from Eric Voegelin's *Search for Order*).

[2] Joseph Ratzinger, *Pope Benedict XVI, Jesus of Nazareth*, 159 (Doubleday 2007)(trans. Adrian J. Walker).

Title: The Sources of Secularism: Science

Date: 2007-07-26T08:02:00.000-04:00

7/26/2007--The scientific account of the world has been proved to be true. Physical forces, not God's hand, keep the stars and planets moving in their orderly paths. The earth is very old. Life has evolved according to Darwinian theory. Even the Big Bang can be explained scientifically, sort of. As Pierre Laplace reportedly suggested to Napoleon, we have no need of God to explain anything in nature.

Why is the success of science a threat to Our Religions? Why can't religion be in charge of morality, on the one hand, and science be in charge of material life, on the other? Even many atheists admit that moral values can be real and enduring. In a Newsweek debate about the realness of God, Sam Harris, representing the atheist side, said: "I'm not at all a moral relativist. ...I think there is an absolute right and wrong." So why not divide the spheres of life: material life on the science side, morality on the religious side, with history split between them? This sort of division is what liberals in America have been suggesting for years—that religion is a private matter and that it should have no role to play in public life.

The problem is that this limit on religion is absolutely not the way the Bible sees things. God must be Lord of morality, history and nature. This is why God begins as creator in Genesis 1:1. God is Lord of history in Exodus, the book in which the slaves are freed from Egypt. And God is Lord of morality in the Prophets, for example in Amos' condemnation of the rich merchants: "Hear this, O you who swallow up the needy, so as to destroy the poor of the land." This is a very crude division--actually God is Lord of all three aspects of reality everywhere in the Bible. But you get the idea.

The God of the Bible is in charge of everything. And this God is not remote. He did not just start things at the Big Bang and then let everything unfold. In Christian dogma, God sends his son to bring salvation to all human beings. In the Jewish view, God enters into a covenant with Abraham so that the Jewish people will bring a blessing the world. These are plans by an all-powerful, and loving, being.

There have been suggestions that other religions might be less resistant to the claims of science than are the Biblical religions. The Dalai Lama, for example, certainly is more open to the claims of science than are most representatives of the religions of the Book: Christianity, Judaism and Islam. In his book, *The Universe in a Single Atom*, the Dalai Lama is careful to concede that scientific findings that have been verified are simply true and trump any religious dogma to the contrary. But this admission turns out to have its limits. This is how George Johnson put it in his review of the book in the *New York Times*, speaking of the Dalai Lama:

"But when it comes to questions about life and its origins, this would-be man of science begins to waver. Though he professes to accept evolutionary theory, he recoils at one of its most basic tenets: that the mutations that provide the raw material for natural selection occur at random. Look deeply enough, he suggests, and the randomness will turn out to be complexity in disguise - "hidden causality," the Buddha's smile. There you have it, Eastern religion's version of intelligent design. He also opposes physical explanations for consciousness, invoking instead the existence of some kind of irreducible mind stuff, an idea rejected long ago by mainstream science."

So it is fair to say that the scientific revolution is a challenge to all of Our Religions to a greater or lesser extent.

Title: The Sources of Secularism: Globalization

Date: 2007-07-28T16:08:00.000-04:00

7/28/2007--There are two related meanings of globalization. The most common meaning is an economic one. Since the fall of communism in the 1980's, a world-wide capitalist economy has been growing. In this one-world, capital is largely free to move around the world. Labor is less free to move, but since production moves so freely, jobs can go to the workers rather than workers having to seek out the jobs. Americans call this process outsourcing and it is an enormous force in the world economy.

The currency of this one-world capitalism is consumption. The economic well-being of everyone depends on consumers everywhere continually buying an increasing mass of products. And these products are becoming the same all over the world.

The other meaning of globalization is more cultural than economic. Globalization also refers to the interpenetration of the cultures of the world. Through all sorts of exchanges, not just economic, all the peoples of the world are in closer contact than ever before.

How might globalization lead to secularization? There are two aspects to this. First, there is the content—the ideology—of this globalized culture. It is a secular culture. Second, and more subtle, there is the pressure of relativism that globalization brings.

First, what is this new world culture about? It is basically a consuming and producing culture. So, what people learn from it is materialism. Globalization is not in any sense a spiritual awakening.

Secularization also comes from the general loosening of cultural ties that happens with movement of various kinds. The Indian computer worker who spends time in Seattle, for example, away from home and family, may no longer see the need for worship. Or the associate who is sent by a law firm to Tokyo for an extended period may not bother with church. Although these sorts of movements do not ensure a weakening of religious commitments, they make that more likely than it would otherwise be.

The secularizing effect of the other form of globalization—cultural contact—is quite different. The issue becomes one of religious skepticism based on anthropological relativism. Historically most human beings knew mostly their own kind and certainly did not know that much about the traditions of other and different kinds of people. When we learn that all cultures have their religious traditions, the effect can be dramatic.

Globalization disrupts our religious certitudes by bringing us into contact with different cultural and religious traditions. Philip Kitcher in *Living with Darwin* describes what often happens next:

"As understanding of the diversity of the world's religions increases, it's hard for believers to avoid viewing themselves as participants in one line of religious teaching among many. You profess your faith on the authority of the tradition in which you stand, but you also have to recognize that others, people who believe very different, in compatible things, would defend their beliefs in the same fashion. By what right can you maintain that your tradition is the right one, that its deliverances are privileged?"[1]

This problem also beset Pem in *City of God*, when he asked in a sermon, "But how do we distinguish our truth from another's falsity... ?"[2]

The more we know of other religions, the harder it is to believe that the one we grew up in happens to be the ultimately right one. But the matter is even worse than that. For not only do we now know that there are sincere believers in other, and different religions, but we also know that our own tradition, especially if it is Christian, could at various points have gone in different doctrinal directions. The Gospel of Thomas, for example, could have been admitted into the Canon. It is clear that the Old Testament was put together out of different and identifiable sources. In other words, our religions are man-made.

The response from many people to all this knowledge is that all religions are basically the same. But what is that "same" that all religions are supposed to be? For many people, that similarity comes down to something very innocuous, like "be a good person." Thus is born a dull secularism, which is out of touch with any deeper possibilities of human life. No religious tradition, nor for that matter much truth of any fundamental kind, can be embraced out of such thinking.

[1] Kitcher, at 141.

[2] *City of God*, at 14.

Title: The Sources of Secularism: Our Religions

Date: 2007-07-30T07:53:00.000-04:00

7/30/2007--Our Religions have failed and are failing two great tests in our day: the role of women and the rights of homosexuals.

In only a small fraction of Our Religions are women and gays treated as genuinely equal to heterosexual men. In liberal religious pockets, women have achieved almost full equality in the ministry and administrative leadership. This is true in the Episcopal Church, for example, but even there, there is tension over the role of women within the greater Anglican community. The more telling example is that women cannot be priests in the Roman Catholic Church. In terms of the rights of gays, an even smaller pocket of liberal religious groups perform gay marriages and truly accept homosexuality.

Of course, it is not for me or anyone else to tell the Catholic Church whether women ought to serve as priests or whether gay marriage should be recognized. But the right of Our Religions to believe what they believe is not what's at issue.

For many people, including me, it is obvious that women and men are equal in any sense relevant to religion. To anyone like me, excluding women or limiting their role is just prejudice, no different from a rule excluding blacks from leadership positions. So, it is just impossible to take Our Religions seriously when the role of women is even an issue.

What is even worse, from the point of view of the religions of the Book, Moses, Jesus and Muhammad must be regarded as rather advanced, even revolutionary, in their views of the role of women for their time. For their followers to be less radical in attitude is intolerable.

Take for example the exclusion of women from becoming Catholic priests. This is often said to root in Jesus' own selection of twelve men to be Apostles. But the Apostles weren't just men. They probably were not dark skinned. Yet no one would think that Africans are excluded from the priesthood. Nor were they maimed, which was an important ritual point in Jewish law. Jesus simply could not have selected a disabled person as an Apostle because of the opposition of people at that time. Nor were any of them illegitimate. That also was not a minor point, for the status of illegitimacy would have excluded an Apostle from many homes. Yet, obviously none of this is considered a restriction today on who may be a priest.

The prejudice against homosexuals is even greater. Many religious people regard homosexuality as objectively unnatural. But we now know that homosexuality is rather common in nature and has always been present in human society as well. Jesus never condemned homosexuality. The matter never came up. But why should the Book of Leviticus be invoked against homosexuality when it is never invoked against eating ham and shrimp, which of course were also condemned in the Old Testament?

The prejudice against gay people in Our Religions has had the tragic effect of turning many gay people against religion itself. Obviously this is not the intention of any religious leader regardless of his opinion about gays. Nevertheless, we are all responsible for the consequences of our actions. It seems to me that the contribution of these failures of religion to the growing secularization of our time, especially among the young, who do not share these prejudices to the same extent as their elders, is a judgment against Our Religions.

There are other failures by Our Religions. For one thing, Our Religions are contributing to the problems of the world in both obvious and subtle ways. The obvious ways are fanaticism and violence. In the struggle between Israelis and Palestinians, the more religious you are the more likely you are to support violence and to refuse to consider compromise and the needs of the other party. The drive for "Greater Israel, including Judea and Samaria" and the commitment to Jihad are religious commitments. Conversely, the more secular you are, the more willing you will be to seek peace and risk your own interests to attain it. These are gross generalizations,

but I think in the main, they ring true. There are justifications for an atheist like Hitchens to write a book attributing the problems of the world to Our Religions. Obviously, young people look at these things and many turn away from religion.

A more subtle point is that Our Religions have often lost the heart of their own message and have become a part of the problem, even if they are not the most significant part. Bill McKibben makes this point in his book, *Deep Economy*.^[1] McKibben points out that most Christians in America believe that the saying “God helps those who help themselves” can be found in the Bible. Actually the phrase originated with Ben Franklin and it expresses an individualism that is at odds with the Bible in general and with Jesus’ message in particular.

This is just one example of how tame Christianity and Judaism have become in the face of capitalist organization of the world. Our Religions are just important enough to be a source of conflict among people, but have not been radical enough to be the source of transformation they were meant to be and have been in the past.

Part of the reason that Our Religions have not convinced the young that they are the new future is that they have been either asleep or defensive in the face of a new and more vigorous atheism. Religion doesn’t have to be ridiculous but it often is because new thinking doesn’t enter the houses of worship. Theologians have dealt with the issue of miracles from the perspective of modern man, for example, but you won’t hear their message in most churches or synagogues. Our clergy are generally both timid and smug, an odd combination.

Even the bold clergy who reinterpret for their flocks, tend to do so in post-modern irony, without the passionate commitment that originally gave our holy texts life. It is not helpful to hear the words “whatever you think that means” after invoking God. We don’t have a lot of Sarah Blumenthals in our pulpits.

There are many exceptions to these criticisms, of course. But it is fair to say that they do not contradict the rule. One consistent exception is the very liberal, politicized religion of certain Unitarian congregations. Here is where you can find gay ministers and consistently caring congregants. Maybe this will be a model in the future. For me, the problem here is that religion really is more than politics, which is why the politics religion gives birth to can be so shockingly original. This form of politicized religion to me is not hallowed and therefore, although I usually agree, I don’t trust it.

[1] *Deep Economy: The Wealth of Communities and the Durable Future* (Times Books 2007)

Title: The Failure of Secularism

Date: 2007-08-03T07:56:00.000-04:00

8/3/2007--In 2006, Hent de Vries and Lawrence Sullivan published *Political Theologies: Public Religions in a Post-Secular World*.^[1] In the book, several scholars tried to come to terms with a new political/religious reality—that the Enlightenment effort to relegate religion to the private sphere seemed to have ground to a halt. The same recognition constituted the shared starting point for then-Cardinal Joseph Ratzinger and the German political philosopher Jurgen Habermas in their 2004 debate concerning the moral foundations of the liberal state. And, I must say, my own book, *American Religious Democracy*,^[2] is also part of this growing recognition of an altered relationship between religion and public life. The change is not so much a reinvigoration of institutional religion, nor a lessening of secularization itself. Rather, what has come into question is whether a genuinely religion-free public life is possible or desirable. We are beginning to see that the answer is no. Something has happened to secularism. A number of thinkers are now questioning a separation of religion and public life that had been taken for granted. Further, it is not necessarily just public life in which religion is receiving new attention. Perhaps secular life has not generated human satisfaction in private life either. *Hallowed Secularism* is an alternative to a failed secularism. But in the next few posts, I will be setting forth the failure of our current secularism. Then I will turn to the more positive alternative.^[1] Fordham University Press (November 15, 2006).^[2] (Praeger 2007).

Title: Secularism Needs to Become a Way of Life

Date: 2007-08-05T10:47:00.000-04:00

8/5/2007--The greatest failing of secularism today is its failure to be a way of life. Secularists do not even understand the need for secularism to be a way of life. They do not realize that they are missing anything. This is why, though we don't believe, we drift back to Church and Synagogue, our kids are confirmed, baptized and bar mitzvahed, and ministers, priests and rabbis end up at our funerals. The most courageous among us do without these things, but have nothing to put in its place. We just do without.

Because secularism is not a way of life, we cannot even say for certain what it means to be secular and who is secular and who is not. This is actually not a new situation. Glenn Olsen says that it was Pope Gregory VII in the 11th century who started the process of secularization that led to the rise of commerce and science as domains separate from Church control. But because this is so early in European history and so odd a source from today's perspective, "[t]he entire process raises...the question of what a proper secularization looks like."

This question of what is secular and what is not is elusive. American society, for example, is clearly secular. Yet, the Catholic Church tried to force Senator John Kerry in the 2004 Presidential campaign to change his position on abortion by threatening the loss of communion. How different is this from Pope Gregory's pronouncement of excommunication against the German king Henry IV in 1076? Certainly President George W. Bush owed his reelection at least in part to the clear, if not express, support of much of the Catholic hierarchy. This mix of religion and politics is partly what my book, *American Religious Democracy*, chronicles.

Not only that, but the culture in America is still interwoven with a religious calendar. Sunday is still more or less a day of rest from business, for many people anyway. Halloween, Christmas and Easter still dominate the seasons of life. Thanksgiving resonates with religious history and themes. Even the Jewish High Holy Days change daily life where large concentrations of Jews live. And as other religious groups gain in numbers, their calendars will contribute to American religious consciousness.

Yet consider also how different the religious situation is today from the past. The Pope has no power here. If Senator Kerry had made the matter of foreign interference with an American election a major issue, he doubtless would have gained political support. And, of course, President Bush is a Protestant. He literally owes the Pope nothing in an institutional religious sense.

The Pope's power in America is dependent on ordinary democratic forces. The question is the same whether it is the Pope's desire for change on abortion or that of the Sierra Club seeking a change on global warming. It is a question of how many votes are at stake if the candidate moves one way or another. The Church in other words, though very powerful, is powerful only as another interest group.

Furthermore, our religious calendar lacks the feel of religious time, of eternity. Often, Sunday is spent at the mall and the baseball game. Christmas is a time of Charlie Brown and buying presents. Easter is losing the cultural sense of the risen Christ.

To see the degree of secularism present in our society, you must ask to what extent Christianity in particular or religion in general is the "ordering principle of human life," as Olsen puts it. Whether the world stands under the dominion of Christ or is proudly autonomous. Put in these terms, even the most paranoid secularist must see how secular we are.

What then is the ordering principle in America and in the West? Upon what are we dependent? Where is our center of gravity?

The answer seems to me to be political, scientific and economic. Our lives are really organized around human self-determination—democracy collectively and self-help individually; instrumental rationality—science in its many guises; and commerce—the world market. These are our sources of meaning—you can substitute self-understanding if “meaning” is too religious for you. And of the three, which do you think is dominant? Is it not the market? Do you doubt that money makes our world go round? This is secularism today.

This is no way of life. It is a world without worship, without gratitude, without mystery and without love. Perhaps I should say, instead, that I don't think it is a way of life. Maybe it is. I do know that secularists have no idea whether this is a way of life or not because it is also a world without thought. Secularism has drifted into this situation.

I think secularism needs a very different kind of life. This is what I mean by Hallowed Secularism. It is not clear to me yet what its features would be. The first step though must be collective engagement. Secular society must begin a deep, democratic reevaluation of our way of life. In other words we must come to grips with our secularism as a people. Obviously I do not mean “politics” when I say democratic. Politics is narrowly divisive. This process must be broadly inclusive. That is why the politicized religion of activist liberal churches seems to me a dead end. We need collective study and thought, and finally decision, as to who and what we are to be in this secular age.

To put this another way, since our sources are political, scientific and economic, we must give a new and deeper meaning to human self-determination. Without impoverishing ourselves economically and without disdaining human reason scientifically, we must come to see democratic self-examination as the new center of society. Only in that way, can we come back to the deeper sources of meaning in the universe that are outside human control. Only by taking control of our destiny can we move beyond human control. This book is meant to be a marker on the way to that undertaking.

Title: The Sources of Depth in Hallowed Secularism

Date: 2007-08-07T12:54:00.000-04:00

8/7/2007--A few years ago, Thomas Friedman, the columnist for the New York Times, wrote an influential best-seller entitled, *The World is Flat*.^[1] The book is about globalization, which is increasingly interconnecting the world. Trade barriers are down, political tensions are lessening, technical advances are reducing the importance of distance. It is increasingly possible to do business anywhere, at any time. India and China are big winners in the new world and many economic opportunities are being created. Culture and knowledge, Friedman writes in a later updated version of the book, are increasingly generated from the bottom up, through contacts made possible in the virtual world. Humankind is, more and more, one enormous community. It is clear that Friedman considers these trends basically beneficent and in any event unstoppable. It is unfortunate that the same forces that allow music and information to spread unimpeded around the world also assist terrorists in spreading their message and that a young person can now become a virtual-world prostitute in his home, but nothing can be done to prevent that. Whether we like it or not, Americans and everyone else will have to get used to this new, flat world. In a later blog entry, I will return to the power of technology and the ways it is changing the world. Certainly, there are good things about this trend, as well as negative. But here, I want to point out that the most significant aspect of this new world is not that it is fast and interconnected, but that it is "flat." The title of Friedman's book is one of those instances in which something intended for one purpose is turned to a quite different purpose. As Joseph says to his brothers after they have arranged for him to be kidnapped to Egypt, only to have him emerge as a powerful political force there in a position to save the family during famine, "you meant evil against me; but God meant it for good..."^[2] Friedman meant flat as in unimpeded. But he is describing a secular world that is flat also in the sense of lacking meaning. As reviewers of the book have pointed out, religion plays little or no role in Friedman's book except that of irrational impediment to globalization. But no other sources of meaning come into play either. The book is about the new techniques for the transfer of information. In other words, we have more capacity to speak to each other and less to say. Friedman's title is a helpful symbol. The secular world is flat. That is what's wrong with it. It lacks depth. It lacks insight into the meaning of human life.^[1] *The World is Flat: A Brief History of the Twenty-First Century* (Farrar, Straus and Giroux 2005).^[2] Genesis 50:20.

Title: The Sources of Depth in Hallowed Secularism: Religion in History

Date: 2007-08-09T12:42:00.000-04:00

8/9/2007--Pope Benedict sets forth the necessarily social thrust of Christianity in his book Jesus when he describes what he calls the foundational text behind Jesus' statement, "I am the true vine." [1] In Isaiah, the owner sings a love song concerning his vineyard. He did all he could for the vineyard, expecting good grapes, but instead, sour grapes grew. Then, the prophet adds, so there is no mistake and all understand:

For the vineyard of the Lord of Hosts is the House of Israel,
and the men of Judah are his pleasant planting;
and he looked for justice, but behold bloodshed;
for righteousness, but behold a cry. [2]

And then the Pope adds, absolutely forcing us to see the political where we would prefer to see "religion," "God gave them the way of justice in the Torah, he loved them, he did everything for them, and they have answered him with unjust action and a regime of injustice." [3]

The first lesson, then, for secularism is that God acts in our collective history. God creates the potential for just societies and men instead institute injustice. When they do that, as Isaiah prophesies, God responds.

We secularists are now put to the test. Fine, there is no God. The question is then put in terms of history. Is there a shape to history or is there not? Is the cry of the orphan forgotten or not? Can a regime of brutality and injustice endure forever?

The secularist who says, history means nothing--a tale told by an idiot--is leading us and himself into nothingness. But not only is such a person depressing and nihilistic, his seeing is wrong or at least dubious.

Do you imagine that the rejection of human slavery is temporary? Or the liberation of women something less than inevitable? No. These are absolute judgments of history. Once these injustices are seen, there is no going back.

I am not speaking of overall progress, not in this century. But the hand of God is on the scale of history, tilting it at each moment in a direction. Against slavery here. For the liberation of women there. Promoting democracy across the globe. And if it isn't God doing these things, and you and I know it is not, it certainly acts in some ways like God.

There is a direct implication of historical direction. If history has a shape, in certain ways and to a certain extent, then man is not free. And this is of particular importance to Pope Benedict. The Pope links the song in Isaiah to the parable in Mark of the tenants of the vineyard.[4] The prophets in the parable, like Isaiah, are the servants sent to collect the rent. Israel, now the tenants rather than the vine, reject the prophets and persecute them. So the owner sends his beloved son. But the tenants kill the son, thinking now they will be free of the owner.

Pope Benedict says this is message of the age of secularism. God is dead and man is free. Man is God. But look where our freedom is getting us.

If history has a shape then that shape is binding. Human beings must conform to it or suffer the consequences. There are costs for injustice. The empire falls.

[1] Jn 15:1.

[2] Is. 5: 7.

[3] Jesus, at 255.

[4] Mk. 12:1-12.

Title: The Sources of Depth in Hallowed Secularism: Theology

Date: 2007-08-15T11:52:00.000-04:00

8/15/2007--The great post-war preoccupation of Christian thinking has been to ponder the rise of secularism and the meaning of that rise in light of the God of the Bible and the revelation in Jesus Christ. It is safe to say that never before in human history has man been in this situation. Of course there have always been individual atheists. But there has never been a culture in which humanity is regarded as being alone in the universe. How could this state of affairs have come about and what does it mean?

This theological project was the positive counterpart to Ludwig Feuerbach's statement in 1841 that "God is nothing else than man: he is, so to speak, the outward projection of man's inward nature" and the shocking announcement by Friedrich Nietzsche in 1882 that "God is dead". Feuerbach denied he was an atheist and Nietzsche has always been considered the more radical of the two in his understanding of man's relation to God. Nietzsche saw in the death of God the potential negation of all value.

One obvious answer to the rise of secularism would be that secularism is the latest manifestation of human sinfulness. Man has turned away from God, as usual. Humans have always used religion to turn away from God and now are using secularism to do so. The role of the Church is then simply to confront and resist modernity. Certain aspects of Karl Barth's theological opposition to liberal Protestantism can be looked at that way and there are some who identify Pope John Paul II as "the last anti-modern Pope". Pope Pius X's encyclical, *Pascendi Dominici Gregis*, "On the Doctrine of the Modernists" is often cited in this context.

But theology, perhaps best exemplified by Dietrich Bonhoeffer, did not rest on that rejection alone. In what Bonhoeffer called his "secular interpretation," he seems to equate secularism with Jesus' cry on the cross that God has abandoned him. God will not save in the world: "God lets himself be pushed out of the world on to the cross." He is to be found only in "weakness and suffering." Thus we find ourselves in a world come of age without God, but before God, that is, in accordance with God's will.

From Bonhoeffer we may conclude that if we want to destroy ourselves, God will not prevent us from doing so. God has told us how to live and now that we have the power and knowledge to live without him, in a superstitious sense, we must live in accordance with his teachings or suffer the consequences. And in that suffering, God suffers with us. This is not a cheery conclusion.

Bonhoeffer was trying to understand the theology—that is, meaning--of the rise of secularism, as a situation without God. The theologian Jurgen Moltmann calls this task grasping "the implicit theology of this modern world of ours ..." Moltmann practices the most radical of critiques of modernity and its will to domination, on behalf of human liberation. He affirms that all theology in the secular world is public theology, that is, theology with its eye on the Kingdom of God, seeing what in the modern world moves toward the Kingdom and what moves away. To accomplish this goal, theology needs secularism, so that it is free of the institutional restrictions of the Church, but also needs an openness on the part of secularism to hear theology's critique.

Moltmann's basic approach is consistent with Hallowed Secularism. Our world is one in which organized religion no longer controls thinking about God. But in current secularism, theology has a hard time reaching popular thinking. Not many people in a secular world are reading theology. But in Hallowed Secularism, theology would become the blueprint for human life to confront reality. In other words, freed of Church control, secular man can return in his autonomy to religious sources for guidance. This is something of what Bonhoeffer and Moltmann are getting at. This is a secular world come of age.

What Hallowed Secularism is attempting to get secular man to see is that the religious question is the most important matter for us to grapple with. When all supernaturalism is abandoned, after miracles are rejected and death is embraced as real, that religious question amounts to this: what is reality really like and what is the human response to reality to be?

No doubt there are other ways into this question besides religion. But since philosophy has become technical and unhelpful to people, theology is the best source for thinking about this question, which is after all, the only question.

Title: The Sources of Depth in Hallowed Secularism: Science

Date: 2007-08-17T14:03:00.000-04:00

8/17/2007--Hallowed Secularism does not challenge science at all but accepts everything science can legitimately claim. Unlike the defenders of Our Religions, Hallowed Secularism agrees that much religious teaching is indeed ruled out by science. Nor does Hallowed Secularism object that this is setting man above God. Undoubtedly, man was meant to use his brain in much the way he is doing.

Hallowed Secularism denies, however, that science rules out much that is fundamental in Our Religions. Our Religions do not make many claims that actually violate the natural order that science has shown us. Atheists love to point out, for example, that God or Jesus heal people but such people never regrow organs. This is supposed to show that God or Jesus lack supernatural power. What it actually shows, however, is that the Bible generally tells us about events that could, at least physically, happen. For example, Jesus heals people. There are many examples in history of healers who can by touch remove disease. Indeed Jesus himself reminds his critics that they also heal the sick.

There are details in biblical accounts that probably could not have happened--for example, no one can actually walk on water. And certainly there is exaggeration in the Bible—an older couple might have a child after all hope has been given up, as in the example of Abraham and Sarah, but the age they are given in the account might be older than they actually were. Other events are most improbable, but do not actually violate the laws of science. A virgin could theoretically give birth, for example.

The most important claim in the Bible is that God speaks to us. This does not violate the laws of nature. The second most important claim is that God enters history. Science certainly has nothing to say about that. In other words, the project of scientific atheism to disprove the existence of God does not succeed.

It gives atheists a lot of comfort that the Big Bang could have happened “naturally,”--that the universe could have begun without violating any natural laws we know. Or, that the universe might always have been existing in some sense. I don't follow the math but I'll accept what they say. And I suppose, if those things were true, that this would rule out the “button-pusher” God who creates by his will.

But, what I want to know is whether the creation of the universe matters. Is self-conscious, morally self-defining life both the goal—the teleology--and the most important accomplishment of the universe? I think the answers to both questions are, Yes, and I fail to see what science can contribute to those answers.

On the other hand, scientific limits on religion go beyond mere physical impossibility. Science gives us a physical account of the world. An important part of that account is regularity. So, I cannot believe in a God who could alter that regularity. Such a God could not be. That has enormous theological implications. In addition, science shows us that everything we know about ourselves roots in our physical being. This rules out for me anything like an existence after death. Perhaps even more important, it keeps me from regarding death as an enemy to be overcome, as opposed to a natural course of events.

Finally, the question must be asked, why is science so important? I know that it is not impossible to believe the Torah/Gospel more or less as traditionally understood. Once, I believed it. Furthermore, I don't know that much about science. I certainly don't vouch for it.

So the issue is not really science. What is at issue is the nature of human life. I insist that human life as I know it is approximately what human life has always been like. If there are no voices at Sinai today, there never were. If there are no miracles today there never were. Conversely, if slaves go free today, then they always were being freed. If human greed today causes the rains to fail, as it does in global warming, then such a curse could always have been sent by heaven. The Kingdom of God must be something that we can seek here and now or it doesn't exist at all.

8/18/2007--From the religion side in my book, *American Religious Democracy* (2007) and now from the secular side in this upcoming book, *Hallowed Secularism*, I have been saying that there needs to be a new openness to religion in public life. Given voting trends, it is not surprising that the Presidential candidates are doing just that, sometimes shamelessly. But it can be difficult to get the new paradigm right. For example, in a bid for religious support, Mayor Giuliani has called for the reinstatement of school prayer at high school graduations. But of course he must know that this is a constitutional issue, so the only effect he can have on it is by nominating Supreme Court Justices who agree with that position. That would require a litmus test that Presidents say they don't do (but of course they do; in fact we should hope they do or democracy would not mean much). It also would require a constitutional theory of Establishment of religion—a new law of Church and State. Well, what is that new approach? I know Mayor Giuliani does not know because no one proposing changes like this has ever said what that approach would be, except for Justice Scalia, who believes that monotheism is historically preferred and Justice Thomas, who says the States can do what they want. These are spectacularly unpersuasive positions no one in public life is going to adopt. The other politician who cannot get the new politics of religion right is Senator Obama. He has been the most aggressive Democrat going after religious voters, even organizing faith and politics groups. But he has repeated on several occasions the old liberal standby that when entering the public square, religious voters must eschew specifically religious language—they are not supposed to say God opposes gay marriage, for example. But this is wrong for several reasons. Here are two. First, where in democratic theory or in first amendment theory do some people get to censor the language of the public square? If a majority of voters oppose gay marriage for religious reasons, why can't they vote that way for that reason? They obviously can. And if they can vote for that reason, why are they not allowed to say they are voting for that reason? This suggestion is simple discrimination by secularists against the natural language of religious voters. Second, this discrimination comes from a candidate who makes campaign appearances in churches speaking the language of religion and then has his campaign send the speeches out on the Internet. In other words, Senator Obama drags the public square right into church for political advantage. All politicians do this. So who are they to tell us to cleanse our religious language when arguing politics?

Title: Christopher Hitchens and Hallowed Secularism

Date: 2007-08-20T21:15:00.000-04:00

8/20/2007--I read the story Christopher Hitchens wrote recently in *Vanity Fair* about his book tour for *God Is Not Great*. I was impressed by how smart Hitchens is and depressed by how shallow his challenge to religion is. Hitchens' basic argument is that religious people do terrible things—although of course they sometimes do good things too--and that secular people do good things. But, while secularism does not cause anyone to actually do bad things, religion does cause bad behavior. Hitchens has a standing bet challenging anyone to come up with something good that only a religious person would do. The main response to Hitchens is that his challenge cannot be tested in this culture because there is no such thing as a person unaffected by religious categories. The very concept of doing good is, in the West, an invention of Judaism and Christianity. Before they influenced the western world, people of course did things we now think of as good, but the category that one should do good things did not exist. As I think Peter Brown put it, almsgiving, that is, support for the poor, was not something Romans did. So, there is no way to really answer Hitchens' question. The problem for him is that this is a post-Christian culture. That means that our categories of cultural behavior are still premised on a Judeo-Christian outlook. Even people like Hitchens, who fancy themselves atheists, know what the biblical God is like. That influence will take generations to weaken, although in many ways secularism is growing in America and the West. Nevertheless, there is one way to begin to test Hitchens' surmise. We simply look at those parts of our culture furthest away from Christian life and ask whether they seem a good bet to ground a healthy and sustainable culture in the future. Since the market is the part of the culture I would identify as furthest from the Church, and since I think the market's influence on human attitudes is harmful, I am afraid secular culture as currently constituted is not self-sustaining in a healthy way.

Title: Mark Lilla and Hallowed Secularism

Date: 2007-08-22T11:08:00.000-04:00

Last Sunday (8/19), Mark Lilla, professor of the humanities at Columbia University, wrote the lead article for the New York Times Magazine, on the topic of religion and public life. He called the American system “the Great Separation”. His self-congratulatory thesis was that while America limits politics to eminently political issues, some people in the world—read Muslims—have regressed to the 16th century wars of religion, which center around God and salvation, which are, apparently, not eminently political issues. I was so angry with the article that I wrote the following letter to the New York Times. Since I have never had any luck getting a letter published in the New York Times, I am reproducing it here: To the Editor: It is rare for a well-known scholar to write an article for the New York Times at once arrogant and incoherent. But Mark Lilla managed it. (The Great Separation 8/19). Lilla's thesis is that in America we have chosen to limit politics to secular topics in order to eliminate religious strife. First, who is this we? Both Abraham Lincoln and Thomas Jefferson, the author of the wall of separation metaphor, saw the conflict over slavery as God's judgment for national injustice. Did these two just not get the secular message? Second, what makes the secular nature of politics a matter of choice? Global warming is a political issue. But human greed destroying God's creation is also a religious issue. You don't get to decide ahead of time that politics excludes religion. Finally who says religion is a unique force for violence? It was unconvincing for Lilla to suggest that WWI and WWII were in any sense religiously based wars. They were not. Nor was the Cold War, which really did threaten the apocalypse Lilla wrongly attributes to religion. Nor was the disastrous American invasion of Iraq about religion. That war was either about spreading democracy or getting cheap oil. Maybe secularists should press for a separation between imperialism and politics rather than between religion and politics.

Title: American Religious Democracy: Coming to Terms with the End of Secular Politics, Reviewed

Date: 2007-08-24T08:45:00.000-04:00

8/24/2007--I am happy to say that American Religious Democracy made Pittsburgh Post-Gazette columnist Tony Norman's recommended non-fiction reading list today. Here is what he had to say about the book that began the movement toward Hallowed Secularism: "American Religious Democracy: Coming to Terms with the End of Secular Politics" by Bruce Ledewitz. This contrarian, but nuanced take on the rise of "religious democracy" in America after the 2004 election will raise a few hackles among secular progressives until they give the Duquesne University law professor's argument some thought. Mr. Ledewitz doesn't believe a greater civic accommodation to religion will necessarily lead to a theocracy. His thesis won't convince everyone, but it is more than worth the arguments it will stimulate, especially in liberal circles. While on the point, there also was a favorable review of the book by in The New York Post by Pam Winnick on July 22. This is for those of you who do not want to wait for the book Hallowed Secularism.

Title: What God Does Hallowed Secularism Believe In?

Date: 2007-08-26T07:31:00.000-04:00

8/26/2007--The Ancient Hebrews discovered a power at the center of things. They did not always understand this power. It was a mystery to them. But they did see it work in history. And they were able to sense its presence. Unlike any other people, they saw this power as involved in the life of humankind and as on the side of the powerless. In fact, they had a sense that this current world did not reflect the way things were supposed to be. They were certain that the power at the center of things, in contrast, did reflect the way things were supposed to be. If you read the Bible, you see the original Garden of Eden, its loss and the differing ways of trying to put reality back the way it is supposed to be. One such way is the covenant with Abraham.

The Hebrews did not think they could command this power. They could not even name it. Sometimes it appeared as person-like, but at other times as power itself. It was the Hebrew genius to try to figure this out.

I think the ancient Hebrews were absolutely right that there is a mysterious power in reality and that its effects are present in our own lives and in history. I also think they were right about its strangeness. I don't have any doubt that it is real and that it is in control rather than we. Yet, it is behind the natural order, not instead of it. It is not doing tricks with nature. The Hebrews apparently also thought that miracles in nature were uncertain, since magicians are shown in the Bible as able to do some of the same things in nature that God does.

The Hebrews thought this power was a something like a person. Here I think they made a mistake. This mistake led them to imagine a plan—God's plan.

By the time of Jesus, some of the Jews foresaw a Messiah and an end to the world as we know it, with the resurrection of the dead and the last great day. The Jewish followers of Jesus knew him as this Messiah and his resurrection was the beginning—the first fruit—of the coming end, the eschaton. Some current Christian thinkers maintain that the second coming was not to be the end of history. Yet it was to be the end of death, and the resurrection of the dead, so in what sense could it not be the end of history?

In any event, Jesus is now for Christians the face of God, who is absolutely a person with a will and a plan and the power to control nature and change its laws.

Atheism and Hallowed Secularism both deny that this sort of God is real. But I guess for atheists, this world seems pretty self-explanatory. We happen to be here and we do things and then we die. There is nothing in any sense behind all this.

But I think the Hebrews were right and not the atheists. In some ways, the world we know is out of whack. It is not the way things are supposed to be. Somehow, humans know this, especially once a book, like the Bible, points it out. When humans work to change this world, both collectively and personally, toward the way it is supposed to be, they come into contact with something that helps them, that comforts them, that consoles them and sometimes "speaks" to them. They begin to see the world as it is supposed to be. But this force does not change nature. It doesn't work that way. And it isn't always present. The Hebrews were slaves in Egypt 400 years before Moses. Those cries were never answered.

When humans try to bring a new world into being on their own, the results are failure, and sometimes catastrophic violence. This is utopianism. But, when, instead, humans work with this power, or better yet, allow this power to work through them, the results can be spectacular.

I have previously called this something a tilt in the universe, toward the good and the weak. But that formulation does not seem right. A tilt does not comfort. A tilt does not communicate. But, on the other hand, a personal God is just a big and wonderful human being, which is not right either. So I will just leave it as a powerful force at the heart of reality sometimes experienced as personal.

You can now see that the disagreement between atheism and religion is not about the existence of God. It is instead about the nature of reality. The word God can sometimes be a shorthand way of claiming a kind of meaningfulness and order in the universe. To that extent, lawyers and judges are arrogant to think of restricting claims about God. For these are not just “religious” claims but assertions about how things are. Every people must decide what is ultimately true about the way things are. Atheists imagine that politics can be separated from that decision. They do not understand that the decision about the nature of reality is behind every political act.

Title: Hallowed Secularism and the Future

Date: 2007-08-28T12:24:00.000-04:00

8/28/2007-- The question is, what can we hope for? If I am right about reality, we cannot hope for an end to death or the final establishment of the Kingdom of God. These things are never to be.

It is the lack of this hope, or one like it, that Peter Beinart, the political writer, sensed in an Internet posting he wrote for The New Republic in August 2007. Beinart noticed that the Democratic netroots, as he calls them—the liberal bloggers who have become such a force in the Democratic Party—are without much radical hope. They are not pressing for fundamental change. And neither is anyone else.

Beinart is right about this, but he cannot say why this is. He is himself a moderate and is happy that there is no destructive utopianism around. Things after all, are pretty good, if we just elect Democrats. Universal health insurance and an end to the war in Iraq are all we should be concerned with.

I know why there is no vision on the left. It is because the left is secular. That means there cannot be any real hope in the future. The future will just be like the past.

Instead, Hallowed Secularism says that we can work toward the establishment of the Kingdom of God, with the understanding that, though we work toward it, this Kingdom is never finally established. It is always on the way. We are always helping, only helping, to bring it about. And in doing this work, we must be very careful to try to bring ourselves into alignment with the power in the universe that is at the heart of reality. We must genuinely try to pray Jesus' prayer: not my will but yours. For if we do not, the dangerous forces we unleash can destroy the world.

And what about me, personally? Well, I am going to die and that will be the end of me. So, whatever taste I am going to have of the eternal will have to be here and now.

And that is possible. The psalmist writes in Psalm 27, verse 4, that he would dwell in the house of the Lord all his days:

"One thing have I desired of the Lord, that I will seek after; that I may dwell in the house of the Lord all the days of my life, to behold the beauty of the Lord, and to inquire in his temple."

The writer does not ask for God's presence after he dies. The touch and presence of the power of the universe is the highest, most intense good that there is in this life. The rabbis used to call it a taste of the world to come. The rabbis never stated with certainty whether the world to come is like heaven or the future or simply the unsayable. Unlike them, I think the taste of it is all there is. But, we can seek that taste. We can live from it.

I often wonder why religious schools advertise their economic benefits—your child will be successful—or their loyalty benefits—your child will remain a Jew or a Catholic. These schools never advertise what they should be about. Send your child here and perhaps one day your child will know God's presence and will work toward the establishment of the Kingdom. Actually I know why such advertisements do not run. The world is filled with atheists. Some of them are parents. And some of them run religious schools.

The presence of God is not guaranteed. The world was shocked when, in the summer of 2007, the letters of Mother Teresa revealed her spiritual loneliness almost her whole life. It was not given to her to know the presence of the Nameless throughout her life. Yet she was faithful to the Kingdom as well as she knew how to be.

Mother Teresa is a good model for us. I don't mean her particular beliefs. Maybe she was wrong. I don't even mean in her particular methods. Maybe she misread everything. I mean that she sought to bring the Kingdom of God closer and she sought the presence in her own life. Now there is a future.

Title: Hallowed Secularism and Democracy

Date: 2007-08-30T10:14:00.000-04:00

8/30/2007--Recently, Mark Lilla, a professor of the humanities at Columbia and one of the new atheists, wrote the lead New York Times Magazine article. The article was called The Politics of God and it was more or less a summary of Lilla's new book, The Stillborn God. The basic idea is that the Western separation of church and state protects us from killing each other over differing visions of ultimate salvation, which any religiously based political system, even one that is liberal and rational, will eventually lead to. Lilla calls the mixing of church and state political theology. The "Stillborn God" of the title is the failure of the rational God of the Nineteenth century to inspire religious life or to restrain religiously-motivated violence. Non-Western people, primarily Muslims, are not lucky enough to enjoy this separation of religion from political life. And we ourselves are always in danger, as I guess this book illustrates, of losing our way and returning religion to political life.

The point here is to see how truncated political life must become in order to avoid religion. Here is Lilla's conclusion, describing politics. I quote it at some length so the reader does not think this a straw man attack. Lilla has just concluded that religious societies, unlike people in the West, will have to find theological sources from which to achieve political peace:

"We have made a choice that is at once simpler and harder: we have chosen to limit our politics to protecting individuals from the worst harms they can inflict on one another, to securing fundamental liberties and providing for their basic welfare, while leaving their spiritual destinies in their own hands. We have wagered that it is wiser to beware the forces unleashed by the Bible's messianic promise than to try exploiting them for the public good."

Lilla's description of our politics is just plain wrong. Consider any of our serious political questions and ask whether they fit into Lilla's conception of political life. What about abortion? You might say that is a matter of fundamental liberty. Fine, but you still must decide between abortion and infanticide, which is not a matter of fundamental liberty. Infanticide, according to Lilla's categories, would be a matter of harming another human being. You can make the distinction between legal abortion and illegal infanticide only by deciding at what point a person joins the political community: at conception, for example, or at birth. Or, you can decide that the mother gets to choose, but still, you must decide when she loses her choice. You can't get away from the question of who is a human being. This fundamental question is why the issue of slavery could not ultimately be avoided or compromised. No separation of church and state could avoid that question. It was a question of ultimate values.

How about the question of whether there should be redistribution of income through progressive taxation? To decide that you have to decide whether it is good for people to live in a society of extreme divisions between the rich and the poor. You also have to decide whether the property a person earns belongs to that person in a fundamental way. Is property something a person holds or something that defines a person?

How about the question of whether prostitution should be legal? Or heroin? Here we must decide whether uses of freedom that degrade the human personality should be permitted.

Or, in perhaps the most extreme example, how about the decision that it would be better to use atomic weapons that might destroy all or most human life, than to allow the Soviet Union to take over the world? That decision involved a commitment by American society that there are some things worth dying for.

Ultimately that is what politics is about—deep conceptions of the good. Efforts of liberal thought to imagine a state neutral about the good life have always failed and always will fail. It is true that any conception of the good life that is worth dying for can lead to conflict and violence. In fact, conceptions of the good life worth dying for probably will lead to violence and usually have led to violence. That unfortunately is the nature of political life, and as Lilla says about religious societies, we better find the resources not to kill each other.

The only way to achieve the political peace that Lilla is aiming at is to abandon political life altogether and to live simply as individuals, surrendering to whatever dominant forces control this society. That can be done in America with ease. One simply works, shops and goes to sporting events. But that is not democracy.

Title: The New Atheism and Democracy

Date: 2007-09-01T09:04:00.000-04:00

9/1/2007--Can people think and talk about our collective lives in meaningful ways? Increasingly, some thinkers on the left question that premise—the possibility of meaningful political discourse. There are a number of political writers, most recently Drew Westen in *The Political Brain*, who argue that rational political discourse is a cover for various psychological needs. In Westen's book this psychological need is for emotions that make us feel good. John Judis expanded this theme in *The New Republic* in August 2007, arguing that politics is a subconscious struggle against the fear of death. What is the message of these writers? Partly, it is an excuse for past Democratic Party losses. The Party, it is said, is too intellectual, too rational. The Republicans are better at the needed psychological manipulation. This idea is also present in political work, like that of Jeffrey Feldman in *Framing the Debate*, that suggests that framing an issue is the key to winning elections. There is a sense in which all of our efforts in life are an attempt to come to terms with death. The point of this recent psychological work, however, is not to help us understand who we are, where we are going and what it all means. The point is to view politics as psychological manipulation. These thinkers conclude that voters don't actually know what they are voting about. I assume something very different. I assume that political discourse is meaningful on its own terms. When I say politics is rational, I don't mean that it is mere instrumentalism. Nor do I mean that it is mere self-interest. I mean that the voters do know in a general way what they are doing. If their emotions are engaged, it is only because that is how we live. If the fear of death is in play, that is only because we know we are mortal. Of course there is such a thing as persuasive discourse. And politicians, like trial lawyers, should put their arguments in the most persuasive package they can. But we assume that in court trial tactics only go so far. We assume that at some point, the facts decide the matter. That is true in politics too. The Democratic Party lost its majority status after 1968. There were many reasons for this. People certainly will disagree about what happened and why. But there were reasons for this political change. It was not all image. Like trials, politics is ultimately about something real in the world. Good presentation only gets you so far. The new political irrationalism that says politics is unthinking psychology and rhetoric is another form of atheism. It is another way of saying that we live in a world of chaos and meaninglessness. Hallowed Secularism stands on this key point with Our Religions in denying that that is so.

Title: Hallowed Secularism and God

Date: 2007-09-04T12:12:00.000-04:00

9/4/2007--The theologian Bernard Lonergan in his book *Method in Theology*, has a thought-provoking way of approaching the question of God—one that does not link God to existence as a being. It is also a way that is not abstract, but has definite moral implications. One is led to say that Lonergan's God is real and makes demands on every person. But on the other hand, Lonergan's God—that is, his God only in one book since Lonergan was a loyal Roman Catholic—is the sort of God many atheists could also affirm.

Lonergan says that "Man achieves authenticity in self-transcendence." That is, in the realm of intelligence, I make judgments, to the extent I am not deluding myself, as to what is in fact so. These judgments are independent of me. They are beyond, trans, me. This is a form of cognitive self-transcendence, that is, self-transcendence in thinking.

Then, according to Lonergan, every human being moves to moral self-transcendence by asking whether the world as it is, or parts of it, are truly good. This is not a question of advantage or preference but of objective value. To live in what E. L. Doctorow calls "moral consequence" is to ask questions about the good, answer them and then try to live by the answers. Lonergan calls this "living a moral self-transcendence." Herein, he says, lies

"the possibility of benevolence and beneficence, of honest collaboration and true love, of swinging completely out of the habitat of an animal and becoming a person in a human society."

All this is a human capacity, which becomes actual when we love.

You may object that this is all within the human being. What does it have to do with God? For Lonergan, there is no self-transcendence unless we are stretching toward "the intelligible, the unconditioned, the good of value." Our horizon, in other words, must stretch to eternity if we are to practice the self-transcendence that allows for human authenticity. There is within this horizon "a region for the divine, a shrine for ultimate holiness."

This space, this possibility of holiness, might resolve nothing since the atheist pronounces this space empty and the agnostic says it is inconclusive. Yet, reality is such that this possibility, the possibility of ultimate transcendence, cannot be ignored. And in fact the possibility is never ignored even by atheists. In fact, it is sometimes derided by atheists, who call it the religious instinct in people. But it is present in the atheist's relationship to reality, too. This possibility is built into us and into the reality we encounter. With this possibility of ultimate transcendence, we have come to God, and not God entirely of our making.

What I find important in Lonergan's approach is his insistence that humans must transcend their self-regarding natures and that this is not mere moral carping but is our destiny in this universe. We live in accordance with reality only when we strive to live this way. When we do not, there are consequences. Some atheists hate consequences for behavior. But even a child knows that there are such.

Other thinkers have come to somewhat similar conclusions about the shape of reality. The crucial similarity among them is that this shape is independent of man. It is something man must take into account, rather like not wanting to walk into a dresser in the dark.

So, C. S. Lewis begins *Mere Christianity* with the transhistorical and transcultural notion of taking your turn, which is an intelligible demand wherever there are people, whether they always follow this rule or not. Apparently taking your turn is a real value, as Lonergan would put it, one that is built into reality.

Walter Brueggemann writes in his classic work, *Theology of the Old Testament*, that the ancient Hebrews discovered something else at the heart of reality:

"a hidden cunning in the historical process that is capable of surprise, and that prevents the absolutizing of any program or power."

Of course, they called this cunning, God. God, they said, was ultimately in control of history rather than we.

The theologian Edward Schillebeeckx wrote of our experiencing "reality as a gift which frees us from the impossible attempt to find a basis in ourselves." This is the mystery of graciousness at the depth of human experience.

Even John Dewey, who was not a theist at the end, wrote of the awareness of the whole of reality that human beings experience. This sounds very much like Lonergan's horizon.

I quote these religious thinkers, and I could go on, in order to demonstrate that they are all making the claim that reality calls to human beings and invites their participation in accordance with certain norms. And that this is the case with regard to individual lives, societies as a whole and history in its entirety. This is what I mean by God and it is real. In fact, it is the most real that there is.

Title: Hallowed Secularism and Economics

Date: 2007-09-06T12:23:00.000-04:00

9/6/2007-- I cannot describe an economic system that does yet exist. But I can set forth four starting points. First, economics must serve larger purposes, not simply feed an unending lust for material goods. Prosperity is fine until it seems to be the purpose of life. A society that believes in money and things will never achieve satisfaction. There will always be the need for more. Nor will such a society ever live in peace with the world, either the natural world or other people. Such a society will always need too much.

The second point is the requirement of economic security. It is not an exaggeration to say that some market oriented people actual want workers to be insecure as a goad to efficient production. The hero of these market people is the entrepreneur who risks all to make a lot of money. That is why they want to privatize social security and to leave medical insurance to a private system. But normal people want to relax. They don't want this goad of living on the edge of disaster. Jesus said not to worry about material things because God would provide them. The way God has provided them is that we are wealthy enough to take some of the economic worry out of life. Without going into detail that seems to require a society-wide retirement system, like social security, and universal healthcare in some form. Such a proposal would also aid the competitiveness of American companies, but that subject is beyond my scope here.

The third point is the need for economic democracy--what Dewey called industrial democracy. People need more of a say in the economic direction of their society. This can happen in a number of different ways—from greater government oversight to laws about plant closings to empowering shareholders. But we must stop looking at economic life as something other than public policy. Wealth is never a private matter. It always rests on a public foundation, whether that foundation is an educated workforce or a low crime rate or simply social peace. Taxation is not theft. It is more true to say that income is theft, or at least that one's income is dependent on the cooperation of others. It is never my own income. Sometimes that cooperation is bartered directly with me, as in someone I pay to work for me. More often it is a background cooperation, like the road my trucks use, for example. And even when cooperation is directly bartered, I rely on the general orderliness of society and the good-will of promise keeping. Economics is the most social of enterprises.

Finally there is a need for greater economic equality. We need a little socialism. There will always be rich and poor, but intelligent public policy spreads the wealth around. Such distribution is fair and is also likely to produce more prosperity for everyone. It also creates the necessary social solidarity for democracy to work. In other words, it is in the interest of the wealthy themselves that the wealth be shared, as they should have learned by now.

What will the economic system of Hallowed Secularism be like? No doubt it will be basically market-oriented. That system has worked well and is much more likely to work well compared to any other economic system. Plus, the market is merely a system of production and first-order distribution. The market does not prevent us from redistributing wealth. Nor does the market require that we value material things beyond everything else. We have fallen into the error of a certain kind of economic thinking. That is what economics in Hallowed Secularism needs to deal with.

Title: Hallowed Secularism and Constitutional Law

Date: 2007-09-08T05:39:00.000-04:00

9/8/2007--Obviously the principle of government neutrality toward religion is in some degree of tension with Hallowed Secularism. That is because the Supreme Court does not know when something is "religion" and thus banned, or is "values" and thus permitted. So, for example, if the people in a secular country want to affirm that reality has meaning and history has a pattern, and that these are in some sense binding, they might say that their country is "under God" even though they don't believe in a traditional God. For this Court, that formulation would raise an issue of government non-neutrality toward religion. But, on the other hand, if the same secular people wrote a Pledge that stated in detail that reality has meaning and that history has a shape and that we are judged by how closely we follow that meaning and shape, this text would probably not even raise an issue of church and state, even though God and this formulation could be thought of as the same thing. To state this problem is not to solve it. And I cannot try to solve it here. It is fair to say that the doctrine of government neutrality toward religion is recent and not well justified by text or history. It is also fair to say that coercion and sectarianism are rejected by most Americans, even those who want more religious expression in public life. So, the building blocs of a new approach to church and state issues are available. That foundation would be to prohibit any form of religious coercion and to avoid endorsing a specific religion but to allow all forms of relationship with transcendent reality and no longer referencing people's religious motives. What is missing is a new vision in constitutional law that can bring all this together. The change I am seeking does not usher in theocracy, as charged by Kevin Phillips. Theocracy is not an outcome but a process. If a democratic people adopt the criminal law of the Old Testament because they believe it is God's will, that result is still democratic rather than anything else. Conversely, if a governing structure gives final say to a clerical institution, as in Iran, the result is theocracy regardless of what democratic window dressing may exist.

Title: Katha Pollitt and Hallowed Secularism

Date: 2007-09-15T14:19:00.000-04:00

9/14/2007--The secular counter-attack in the political sphere continues. Here are two quotes from Katha Pollitt in The Nation's 9/24/2007 issue: "It's one thing to show respect for religious belief in the context of social tolerance in a pluralistic society--freedom of speech, separation of church and state, live and let live--but when Christians make faith a matter of public policy, it becomes hard to explain why nonbelievers should be deferential. If I wanted to live in a theocracy, I would move to Tehran. It's fine with me if a candidate believes in God. Unlike some militant atheists, I don't think it matters for public policy that Obama believes Christ absolves his sins, or that Hillary Clinton hopes God has time to help her pass up dessert. We all believe weird things." There are several things wrong with Pollitt's formulations. For one, theocracy is not an outcome but a process. Iran is a theocracy because clerics get to veto the popular will. But the outcome of a democratic process is democracy and nothing else. So, if a majority of Americans vote to outlaw gay marriage because God says so, that is not, strictly speaking, theocracy, but democracy. Pollitt presumes to judge the motives of voters and to proscribe religious motives. But she does not have the right to outlaw motives. Of course, Pollitt is right that in the public square bad policy proposals are fair game. No one should be deferential because their political opponents are religious. But there is a difference between opposing a policy on its merits and opposing it because it represents theocracy. We should be deferential to the motives of anyone. Martin Luther King's proposals should not have been dismissed simply because he thought he was doing God's will. Pollitt is also wrong in saying that faith doesn't matter to public policy. Of course it does. George Bush's grandiosity is closely tied to his belief that he is following God's will, for example. Therefore, we had better find out what kind of faith candidates for public office have. As for the crack about believing weird things, I hope it is not weird to believe that God wills slaves to be freed. That is what the Old Testament claims. Our Religions make many claims about reality. Many of those claims are directly related to questions of public policy. One such belief is that nations are inherently untrustworthy worshipers of power. I wish we had kept that in mind before we invaded Iraq.

Title: Hallowed Secularism and the Family

Date: 2007-09-17T13:19:00.000-04:00

9/17/2007--How can secularists transmit religious knowledge, that is, knowledge of the transcendent side of life, to their children? Perhaps by sending their kids to religious schools to hear messages the parents reject. The issues there are obvious. Training the child yourself is beyond the capability of most people and I imagine the results will be mixed for others, as it was for me. Public school is one possibility. This suggestion assumes that secularists get over their hostility to all things religious. A serious comparative religion course could only be taught by serious religious people. Such a course never communicates properly unless the people teaching are sympathetic to the subject matter. This is a question of tone and it is perfectly obvious to the students when the teacher finds religion outdated or otherwise false. There would be religious converts from such a course and this would bother both atheists and religious families who lose a child to some other tradition. But at least this sort of structure is imaginable. If the political and legal opposition to using the public schools is too great, my other suggestion is to set up part-time programs after school, as my small synagogue did in creating our own Hebrew School. The tricky part, if this is to be done, is to set up the curriculum. Obviously, the school could teach comparative religion, as I suggested for the public schools. But I think the best course would be to teach the religion of the family the child comes from. In my case, for example, the curriculum would be Jewish. I do not mean a celebration of Jewish culture, or Christian culture, as in the online magazine, *Secular Culture and Ideas*, which celebrates secularism in Judaism. There was a story recently in this magazine about Ira Glass, the NPR radio host, who was asked, "Do you still go to synagogue?" He responded, "I don't believe in God, and so I feel like a fraud when I'm in a synagogue. I feel like somebody who is in a theme park of my own childhood. I know all the songs, and it makes me feel really warm and nostalgic, and it's incredibly comforting. But then I think that I don't believe anything that's being said here. And so, I have no business here." I am trying to describe a school in which the themes of God, revelation, history, ritual and prayer are vital and real, but without traditional content. In other words, you teach Judaism as if you believed it, but being candid with the students about belief and non-belief. Will all this work? I haven't even described a clear idea, so it is impossible to say. The goal is clear, however. Atheism is very likely in the long run to lead to hopelessness and despair. The hope here is to engender meaning in the young. To the criticism that it will not work, I can only respond that most of these children are going to be secular one way or the other, so something had better work.

Title: Hallowed Secularism and Humanism

Date: 2007-09-21T07:20:00.000-04:00

9/21/2007--Visiting family in Florida, I was reminded of the need to retrieve the history of humanism for the project of Hallowed Secularism. For example, in her New York Times book review of Norman Davies' book on WWII, *No Simple Victory* (9/9/2007), Susan Rubin Suleiman notes the following strange entry in the book: "[Kurt Vonnegut] succeeded Isaac Asimov as president of the American Humanist Association." I had forgotten that there is such a group, though it has been around for over 60 years. There is also an active movement called "Secular Humanistic Judaism". There are two points to be made here. One, why are we reinventing the wheel? Why, in other words, is there a new atheism when there is an old and established one? The second question concerns the quality and tone of this older humanism. Look at the quality and intellectual centrality of a Vonnegut and an Asimov. These were giants of American letters and deeply educated and cultured persons. Hostility to religion was not their thing. Their thing was the human condition. Similarly, more or less the founder of Jewish Humanism as a movement, Rabbi Sherwin Wine, who was killed in an automobile accident in Morocco in July, was a towering figure and a serious and pastoral religious leader. And, more generally, the thinking of humanism in its heyday, with the drafting of the Humanist Manifesto in 1933, was not opposition to religion, but the creation of a secular civilization with a complex relationship to religion. I guess I am saying that the project of Hallowed Secularism, although quite religious in tone, may be closer to the humanist tradition than is the current atheist enthusiasm. John Dewey, for example, a signer of that Manifesto, was always aware of what religion had, and could, bring to human life.

Title: Hallowed Secularism and the Future of Religion

Date: 2007-09-23T07:22:00.000-04:00

9/23/2007--This section concerns the future of religion in a world of Hallowed Secularism. I have already said that as secularism becomes the dominant world-view—admittedly many years from now no matter what kind of secularism it is—Our Religions will not disappear. They will remain on the scene and perhaps even retain the formal attachment of a majority of the world's population. But they will not dominate the terms of life, either for societies as a whole or for local life. Of course for many people in such a world, religion will remain the dominant reality.

It is hard today even to imagine a world in which religion is no longer a dominant world-wide force. I am writing this section at a time of intense conflict between Islam and the West. Recently, a Congressman who is a foreign policy advisor to a leading Republican Party Presidential candidate—New York Representative Peter King, who advises Rudy Giuliani--was quoted as saying that America has “too many mosques”. After a furor arose over these words, King explained that he meant too many mosques that did not cooperate with law enforcement. But since King was also quoted as saying that 85% of mosques in America were controlled by extremist leadership, this was a distinction without a difference. For Peter King, though there are certainly “good” Muslims, most Muslims are the problem. Or, just to sharpen the point, Islam is the problem.

Partisan political advantage aside, I think King has stated the basic American position perfectly. He is being widely criticized, but you have to listen very carefully to the criticism to see that most politicians, even those who are doing the criticizing, actually agree with him that too many Muslims either sympathize with terrorism or refuse to condemn it. If you are either with the West or against it, Muslims are not unambiguously with us.

The world we are now living in sees this conflict as very deep. For example, Norman Podhoretz argues that in the world as a whole, few Muslim clerics condemned the attacks of 9/11. As another example, the Bush Administration was trying to create in Iraq a secular democratic State, before that effort was abandoned as totally unrealistic. When Muslims complain that the war on terror is really a war against Islam, there is a sense in which they are right. Many in the West do consider Islam to be the fundamental source of conflict in the world today.

This view of Islam is not just a consequence of 9/11. It was in 1993 that Samuel Huntington published his famous essay, *The Clash of Civilizations*, in *Foreign Affairs* magazine. Huntington argued in that essay that in the coming years international life would be dominated by conflicts between civilizations, groupings that he specifically identified with religion, although he referred to such conflict as cultural. Recently, Huntington has sharpened his criticism of Islamic civilization, arguing that it is not fundamentalist Islam but Islam itself that is the source of conflict with the West.

I must add here, although not strictly necessary to my thesis about the future, that I think these criticisms of Islam to be fundamentally mistaken. There is not something fundamentally different about Islam compared to Christianity and Judaism that requires and accepts violence and conflict. In other words, the conflict today between Islam and the West is real enough, but is not grounded in theology, at least in the way people think.

Islam is not an inherently violent religion. Islam is not a violent way of life. I say this for two reasons. First, during earlier periods of world history, Islam created great civilizations that, for the world at the time, promoted much greater tolerance and cooperation than did Christianity. I am thinking of the Golden Age of Spain, before the Christian reconquest that ended with the expulsion of the Jews in 1492. And there are other examples as well.

Second, Islam is the religion of over a billion people in the world. It is simply arrogant and ridiculous for some people in the West to argue that such a world religion is fatally and fundamentally dangerous. That cannot be true or Islam would not have a billion adherents. I don't mean all religions are equal. I just mean that at this kind of scale, you have a social reality to deal with, rather than something to condemn.

It may be true that most Muslims in America will not cooperate with law enforcement officials. But what does that mean exactly? It probably does not mean that if Muslims learned of a plot to blow up a building, they would not contact the police. It probably means that Muslims will not report fundraising for groups the United States calls terrorist, like Hamas and Hezbollah, but which many Muslims regard as legitimate social and military organizations.

This supposed lack of cooperation may even mean something else. The FBI may be asking Muslims to "keep their ears open" and Muslims may be resisting such regular contact with the government. People don't want to be thought of as spies against their own community. I would feel the same way if asked by the FBI to report on even genuinely illegal activity in my synagogue.

If the conflict in the world today is not theological in the sense that Islam promotes violence, what is its source? And what does that source tell us about the future of religious conflict? The mostly unstated goal of the West in regard to Islam is to tame it in the way that Judaism and Christianity have been tamed. In the eyes of the West, Islam must become a matter of private religion and must give up its claim to be the fundamental source of public norms in a society. This is what it means to come to terms with modernity. This is what it means to share the values of the West.

This desire in the West to change Islam is not partisan. For those on the political right, Islam must be made safe for capitalism, that is, for private property ownership, lending at interest, neutral courts and so forth. For those on the political left, Islam must be made safe for personal freedom, especially in matters of gender or sex. Both sides say they want to see democracy for the Islamic world, but it must be democracy that leads to these results.

Let me state plainly that I am in some sympathy with this effort. I would not want to live in a country dominated by Islam as currently understood. But it is important that taming Islam in this sense is the real conflict. It has nothing to do with violence per se. And it is aimed at Islam in a fundamental way.

Can we say what will happen in the future in regard to this conflict? Given the basic forces of secularization that I have discussed earlier, I think the effort to change Islam will succeed. A billion people cannot be basically different from everybody else. Science is science. Trade is trade. Products are products. Muslims will want kind of life that others want.

When is this secularization supposed to happen? We should consider how long it took Christianity to come to terms with modern, liberal culture, including democracy. It took hundreds of years. But it happened. It will happen with Islam too and in less time. Once there is peace between Israel and a Palestinian State, which will eventually happen, the process will speed up.

Hallowed Secularism has a role to play here. Part of the source of conflict between Islam and the West is the sense on both sides that modernity and Islam are quite incompatible. And there is a sense in which that is absolutely true, if we mean by Islam the subjugation of women and the rejection of democracy. But partly, and for some in the West, the incompatibility lies not in particular aspects of Islam but in an incompatibility between modernity and religion itself. This is what a Christopher Hitchens would say, for example.

Hallowed Secularism rejects that view and self-consciously blurs the distinction between religion and secularism. Thus, a West engaging in Hallowed Secularism would both be perceived by religious practitioners, including Muslims, as not fundamentally hostile to religion and would actually not be as hostile as some secularists are today.

Hallowed Secularism is much more relaxed about the relation of religion and public policy than is today's version of secularism. Public policy is always based on fundamental values and world-views and these values are going to continue to be based on religious sources at least in part. Religion is not expected to be solely private in a world of Hallowed Secularism.

Because Hallowed Secularism is more sympathetic to religion and more familiar with its tone and more open to its values, it can lead to a world of greater understanding and cooperation than seems possible today.

Title: Hallowed Secularism Constitution Day Address

Date: 2007-09-29T17:17:00.000-04:00

9/29/2007--On Thursday, September 27, 2007, I delivered the inaugural Widener Law Review Constitution Day Address at Widener Law School in Wilmington, Delaware. The title of the talk was The Myth of the Great Separation and the Future of Secularism. The talk addressed the recent work of Mark Lilla and argued that there cannot be genuine political life in a democracy without a foundation of transcendent values. The liberal effort to create a government that is neutral with regard to the good life is impossible. This has implications for the separation of church and state. While organizational and even monetary separation is possible, no separation can ultimately exist between what Lilla calls political theology and political life. Lilla assumes that secularism must be atheistic and he further assumes that atheism can sustain a healthy politics. Lilla's argument is quite different from that of someone who holds that meaning can be developed independently of religion. That is clearly true, but when it occurs, the result is essentially Hallowed Secularism, that is, a secularism open to humankind's deepest questions. Lilla wants such questions banned from politics, in the name of peace. This is why Lilla relies so heavily on Thomas Hobbes. But this is the peace of the grave, not the peace of democratic life. I want to thank the Widener Law Review for the opportunity to give this address and I especially wish to thank Widener Law School Professor Alan Garfield, whose formal response to the address took issue with much that I have been saying on this blog and gave me a great deal to think about. I believe the talk and subsequent exchange will soon be available on the Widener Law Review website: <http://www.widenerlawreview.org/>

Title: Secularism's Criticism of Religion

Date: 2007-10-01T12:40:00.000-04:00

10/1/2007--Secularism likes to portray religion negatively. There are various aspects to the criticism. Religion promotes conflict; it promotes injustice; it appeals to the irrational; and so forth. But the protests going on in Myanmar by Buddhist monks against the military government give us a different understanding of religion. The monks protested by holding their begging bowls upside down, refusing to receive alms from the military officials, thus, in the words of the New York Times story, "effectively excommunicating them from the religion that is at the core of Burmese culture." And this is not the first time that religion has helped people challenge an unjust status quo. The Solidarity movement in Poland that helped bring about the disintegration of Communism was a deeply religious movement, greatly aided by the support of Pope John Paul II. The liberation movements in Latin America also find their bedrock in Christian faith. And, of course, the American civil rights movement was grounded in the Black Church. It is true that religious establishments have often supported dictatorial rule. It is also true that many protestors against injustice have been secular. You don't have to be religious to love freedom. The point, though, is that with religion, one can get beyond narrow self-interest. Something new becomes possible. There is hope. There is even surprise. Sometimes that surprise is shocking, as when an Amish community in Pennsylvania genuinely forgives the man, and the family of the man, who killed five Amish girls in a school. That happened one year ago. Don't say quickly, I can be good without religion. Maybe we've never been good and we only mean we can be what we are without religion. That is true. But maybe without religion we can never be different from what we are. I know you can't force yourself to be religious. I am not a believer either. But the religious people in these stories have something we lack. And that something frees and liberates them. If we can't have it as such, we had better get as close as we can. That's what Hallowed Secularism tries to do.

Title: Hallowed Secularism and the Wall of Separation

Date: 2007-10-03T10:00:00.000-04:00

10/3/2007--Hallowed Secularism requires a new understanding of the relationship between Church and State. Current secularism strongly endorses strict separation: the Wall of Separation. Mark Lilla calls this, on behalf of the New Atheism, The Great Separation, for example.

The first thing to note is how much of a change the Wall of Separation was at the time of its first introduction. The first case to talk much about the Wall of Separation was Everson v. Board of Education in 1947, although I believe the image had been mentioned once before, in 1878.

Surprisingly, in Everson, the secular doctrine of a government neutral as to religion emerged almost full blown and every Justice subscribed to the basic idea. Every Justice would have agreed with the majority that "the wall must be kept high and impregnable."

What we need to think about is how the Court could endorse such a high level of secularism in 1947. To remember how religious America was at that time, let me simply set forth FDR's radio message to the country on the occasion of D-Day, a part of which I heard on Ken Burn's The War on 9/26/2007. I ask you where the Wall of Separation fits in a moment like that?

June 6, 1944

My fellow Americans: Last night, when I spoke with you about the fall of Rome, I knew at that moment that troops of the United States and our allies were crossing the Channel in another and greater operation. It has come to pass with success thus far.

And so, in this poignant hour, I ask you to join with me in prayer:

Almighty God: Our sons, pride of our Nation, this day have set upon a mighty endeavor, a struggle to preserve our Republic, our religion, and our civilization, and to set free a suffering humanity.

Lead them straight and true; give strength to their arms, stoutness to their hearts, steadfastness in their faith.

They will need Thy blessings. Their road will be long and hard. For the enemy is strong. He may hurl back our forces. Success may not come with rushing speed, but we shall return again and again; and we know that by Thy grace, and by the righteousness of our cause, our sons will triumph.

They will be sore tried, by night and by day, without rest-until the victory is won. The darkness will be rent by noise and flame. Men's souls will be shaken with the violences of war.

For these men are lately drawn from the ways of peace. They fight not for the lust of conquest. They fight to end conquest. They fight to liberate. They fight to let justice arise, and tolerance and good will among all Thy people. They yearn but for the end of battle, for their return to the haven of home.

Some will never return. Embrace these, Father, and receive them, Thy heroic servants, into Thy kingdom.

And for us at home -- fathers, mothers, children, wives, sisters, and brothers of brave men overseas -- whose thoughts and prayers are ever with them--help us, Almighty God, to rededicate ourselves in renewed faith in Thee in this hour of great sacrifice.

Many people have urged that I call the Nation into a single day of special prayer. But because the road is long and the desire is great, I ask that our people devote themselves in a continuance of prayer. As we rise to each new day, and again when each day is spent, let words of prayer be on our lips, invoking Thy help to our efforts.

Give us strength, too -- strength in our daily tasks, to redouble the contributions we make in the physical and the material support of our armed forces.

And let our hearts be stout, to wait out the long travail, to bear sorrows that may come, to impart our courage unto our sons wheresoever they may be.

And, O Lord, give us Faith. Give us Faith in Thee; Faith in our sons; Faith in each other; Faith in our united crusade. Let not the keenness of our spirit ever be dulled. Let not the impacts of temporary events, of temporal matters of but fleeting moment let not these deter us in our unconquerable purpose.

With Thy blessing, we shall prevail over the unholy forces of our enemy. Help us to conquer the apostles of greed and racial arrogancies. Lead us to the saving of our country, and with our sister Nations into a world unity that will spell a sure peace a peace invulnerable to the schemings of unworthy men. And a peace that will let all of men live in freedom, reaping the just rewards of their honest toil.

Thy will be done, Almighty God.

Amen.

Title: The Fall of the Religious Right

Date: 2007-10-08T17:27:00.000-04:00

10/8/2007—In a story in the Sunday New York Times, Laurie Goodstein chronicled how the religious right has “taken a tumble”. The movement is splintered among several GOP candidates for President, is being taken for granted by the frontrunners, and is panicked by the possible nomination of pro-choice/pro-gay Rudy Giuliani. Plus, polls show that Evangelical Christians are divided on a number of issues, for example global warming, that go beyond the recent emphasis on abortion and gay rights. This is making it harder for the movement to maintain its political influence. In this context, it is good to remind my readers of the premise of my book, *American Religious Democracy*. The point of the book was the establishment of the legitimacy of religion in American politics, despite the earnest effort after WWII to create a genuinely secular politics. That newly reestablished legitimacy is not going away, as the constant God-talk by Democratic candidates for President demonstrates. Secularists must come to terms with religion. This is so not only for obvious short-term political reasons. Unless secularists and religious people can genuinely cooperate, there never will be a popular, progressive movement in America. The troubles of the religious right do not lessen this imperative in the slightest. I should add, though, that I think the political troubles of the religious right are exaggerated. There is not the slightest chance the Republican Party will nominate Giuliani for President. The media thinks his nomination is possible because the media is New York centered and oriented to secularism. And, if Senator Clinton is the Democratic nominee, which seems increasingly likely, the religious right will organize in an aggressive fashion that, whether successful or not, will remind everyone of its political power.

Title: The Importance of Religion to Hallowed Secularism

Date: 2007-10-10T19:59:00.000-04:00

10/10/2007--Here is another illustration of why secularism needs religion, that is, needs to be a Hallowed Secularism. In America today, there is a renaissance of the thought of the theologian Reinhold Niebuhr. A lot of people have rediscovered him. Niebuhr is looked to because of his "Christian realism." He knew that there really are no just nations. Every country is, to some extent, out to better itself at the express of its neighbors. A number of opponents of the war in Iraq are now citing Niebuhr. However, although Niebuhr's point of view is very important, it cannot be grasped by itself, on its own terms alone. As Paul Elie recently said in an online Atlantic Monthly interview, losing touch with the Biblical perspective and looking at things only from a secular point of view, has led to shallowness in our political life. We have forgotten about human frailty, natural catastrophe, the perpetual threat of irrational violence and the propensity toward oppression. We have lost the sense of history and of the eternal lessons of human experience. I'm sure that we could have relearned these lessons from other religious traditions as well, but we have to draw from some deep well in order to live fully and deeply. We learn these things from religion. We see all the time what religion can do. We see a Martin Luther King. We see a Gandhi. We see a Dalai Lama. We see a Desmond Tutu. We see Buddhist monks facing down guns and bayonets. We see an Amish community forgiving a killer of young school girls. We know, and we ought to be willing to admit, that religion is a potential source of greatness in the human spirit. And we also know, if we are candid, that such sources are not all that common.

Title: The Limits of Religion

Date: 2007-10-12T15:42:00.000-04:00

10/12/2007--Rereading what I have written in several recent posts, I am led to wonder, why not just be religious? It sounds so good. The problem has nothing to do with the Church and its stands on issues. These things don't help, but they are not the crucial matter. Nor is the matter institutional. I don't like the clergy acting as if they are intermediaries, but if that were really the issue, we secularists would just form our own Christian/Jewish sect. Secularism is growing because of the spirit of the age. Our religions form a coherent whole. You cannot really pick and choose what to believe. At least, you cannot pick and choose at the foundation. Speaking for the moment only about the Biblical religions I know, there is too much at the foundation that is not believable. Terms here are notoriously slippery. The concept of God has been reworked by theologians like Mordecai Kaplan to exclude the supernatural. Other kinds of reinterpretations of miracle have been attempted. So, it is not easy to state the bedrock that is not possible and then to consider whether this has not always been true of human beings. I'll start with a Christian doctrine that cannot be avoided. In his book *Jesus*, Pope Benedict discusses the second Beatitude from the Sermon on the Mount in the Book of Matthew: "Blessed are those who mourn, for they shall be comforted." The Pope points out that the sufferer is not truly comforted by standing under the protection of God's Kingdom. "[T]rue comfort only appears when the "last enemy," death, and all its accomplices have been stripped of their power." And this—the end of death—is what Jesus ultimately promises. For those of us who are naturalists, this promise of ending death makes no sense. First, death is a natural process, not an enemy. Second, death cannot be overcome. I'm not looking forward to the rapid decline I have already started. I am not happy to see my parents aging. Death is not simply the end of life. Death is also decline and pain. So, I understand why death is called enemy. But, all the same, death is what makes life, life. Life does not go on forever. We each die and our species dies too. We are part of a great cycle. It is ingratitude to life that seeks immortality. Nor is it possible. We are by nature finite. In science fiction, many injuries can be healed and rejuvenation is sometimes possible. But even in science fiction, there are limits built in to the natural order. There are borders beyond which human science cannot foresee. Death is always a possibility. This promise of an end to death is simply not credible—at least to the secularist.

Title: Religion's Challenge to Hallowed Secularism

Date: 2007-10-14T09:37:00.000-04:00

10/14/2007--The most serious challenge to Hallowed Secularism from religion is that Hallowed Secularism is just a sop for comfortable people to feel better about themselves and their world. It cannot serve as a foundation for radical transformation, either personally or collectively. I am not sure how to respond to this challenge. Radical transformation that is positive, rather than the demons of revolution, has been rare in human history. Where it has occurred, it has generally been the result of religious conversion in one form or another. Whether Hallowed Secularism can call us out of our personal comfort depends on the extent to which it becomes genuinely holy. It is from the sense of the holy that real change comes. By holy, I simply mean that we know our world and ourselves are not as they ought to be. The distance between the two suddenly becomes a personal demand. On the bus this morning, I looked around and saw broken humanity everywhere. The people on that bus were poor, tired and seemed without hope. My immediate response was that I had been very fortunate to have the life I have. That is a typical secular response. But, the typical religious response is not much better. The morning prayers in Judaism tell us to thank God that we are not in the situation of others. The response of the saints—the saints of any religion--would have been very different. They would have resolved to help mend the broken world by their own lives. Many is the time they have succeeded. Can you imagine a secularist, even a hallowed one, responding in that way? When you can, then you will know that Hallowed Secularism can be an answer.

Title: Hallowed Secularism and Unitarian Universalism

Date: 2007-10-16T07:20:00.000-04:00

10/16/2007--A family member noticed a full page ad in Time Magazine on October 15, 2007 by the Unitarian Universalist Congregations (UUA). The ad asked the provocative question, "Is God keeping you from going to church?" The ad suggested that people may be uncomfortable with an idea of God that comes from others. In Unitarian Universalism, on the other hand, the religious seeker can find "a loving, spiritual community where you can be inspired and encouraged as you search for your own truth and meaning." The question directed to me was, "how does this differ from Hallowed Secularism?" Certainly I have nothing whatever against Unitarian Universalism. The Allegheny Unitarian Universalist Church, "a spiritually diverse, activist congregation," as they put it, is just around the corner in my neighborhood. I have spoken there and I know they do great things, though I admit that politically predictable religion is not for me. The problem theologically can be seen in the ad itself. Truth and meaning are objective or they are not worth much. You do not work out the truth for yourself. When you get the truth wrong, you are in sin and your life may turn out not to have much meaning. When whole societies get the truth wrong, they suffer horrible consequences that traditional religion calls the judgment of God. It is the subjectivity of liberal religion that is so un-biblical and thus differs quite a lot from Hallowed Secularism.

Title: Hallowed Secularism and Humanism

Date: 2007-10-18T09:24:00.000-04:00

10/18/2007--Hallowed Secularism acknowledges the power of humanism. It just goes beyond it. Here is a section from the book on the power of secularism.

Jesus said, "By their fruits will you know them." By that measure, humanism has done very well in recent years. Pope Benedict has been lavish in his acknowledgment of the importance of individual rights in general and religious liberty in particular. Our Religions as a whole have praised religious liberty. But, it is fair to say that such rights have been the accomplishment of humanists, rather than of Our Religions. While the roots of the human rights tradition were laid in the Bible, and while it is fair to point out that this tradition grew originally only in national soil prepared by the Church, nevertheless, our liberty has not been the gift of the Church, as it should have been. It has been the gift of the humanist tradition.

Humanism has freed humanity from the tyranny of superstition and from the illegitimate power of clerics. We need only look at the Muslim world, which has lacked a humanist tradition in the modern era, to see the importance of humanism in this regard. Some of this humanist accomplishment has been described in the books of the New Atheism. Religion has a great deal to answer for. Religion has been a stumbling block.

Humanism has shown us in various ways that Our Religions are human creations, rather than traditions given by God. Humanists from the Protestant tradition essentially created the fields of source criticism and sociology from which much of our knowledge of religion comes. Again humanism has taught us what Our Religions would prefer we not know.

Humanism has also emphasized the integration of man against all claims of dualism. Man is not a war of spirit and body. Man is both spirit and body. Or, rather, man's body is spiritual and his spirit is embodied.

Humanism also has taught us that men are responsible for their own actions. It is not enough that a leader tells us that God spoke to him and commanded an invasion of a foreign country. We are to work out our destiny on our own in the here and now.

As John Dewey hoped in *A Common Faith*, this attitude that man must handle his problems on his own, probably has helped bring about a surge of human effort around the world to alleviate poverty, cure disease, bring peace and so forth. It is also true that the world economic system is bringing increasing numbers of people out of the terrible poverty that afflicts so many people in the world. The system of representative government, market economics and judicial review has spread around the world and, if it has not solved all the problems of the world, it has provided a lot of people with stability in governance and the possibility of prosperity. There is increasing commitment to collective human action to confront world-wide problems like global warming and as soon as the United States ceases to obstruct the effort, even more will likely be done.

Human capacities are increasing. There seems to be an understanding of how to avoid the crippling economic disasters of the not-so-distant past, when the entire world could spin into depression, thus threatening and ultimately undermining world peace.

There are many problems, even crises, facing humanity. But some of the most significant have been greatly exacerbated by religion. Specifically, the struggle between the State of Israel and the Palestinian People and the general threat of terrorism both have important religious aspects. Humanism certainly cannot be as much blamed for these problems as religion should be.

There is a sense that Dietrich Bonhoeffer was right that this is a world come of age. We are more rational, less warlike, more prosperous and more reasonable than humanity has probably ever been. And to a great extent, it has been humanism in its many guises that deserves the greatest share of the credit.

Title: World Magazine interview with Bruce Ledewitz

Date: 2007-10-19T09:32:00.000-04:00

10/19/2007--World Magazine is a Christian news magazine I highly recommend. Marvin Olasky, the Editor-in Chief, has always been hard to categorize politically. Here is part of the magazine's typical self-description: "We believe that our purpose is to glorify God and enjoy Him forever—and forever begins right now. We like sex, within marriage. We're not amoral hedonists, but we're not stoic moralists either. We like the vines and fig trees God gives us. We read novels, go to movies, and listen to classical music but also jazz. We prefer ice cream to cotton candy. We cover movies, yoga, artists and travel; we aren't Christians with rules against anything that's fun because God made fun, too. "

What follows is an interview from some months ago that has just appeared.

Bruce Ledewitz received his J.D. from Yale Law School in 1977 and is a Professor of Law at Duquesne University, where he has taught constitutional law since 1980. His book *American Religious Democracy* (Praeger, 2007) argues that the era of ardent separation of church and state is over—and that the change is not something to fret about.

Many Christian conservatives have also written about secularism run amuck, but Ledewitz is neither conservative nor Christian: He served as western Pennsylvania coordinator for the presidential campaigns of Gary Hart and Al Gore, was secretary of the National Coalition to Abolish the Death Penalty, and is Jewish.

WORLD: Why do you think the United States is becoming a "religious democracy"?

LEDEWITZ: My definition of religious democracy, which is "simply that a substantial number of voters in America now vote the way they do for what they consider to be religious reasons" and that government policy increasingly reflects that reality, suggests that America has always been a religious democracy, which is true to an extent. The difference today is that voting for religious reasons is more self-conscious than before, especially among conservatives.

The changes in policy include President Bush's faith-based initiatives, the veto of federal funding of stem-cell research, state constitutional amendments banning gay marriage, among much else—and in the U.S. Supreme Court, appointments of justices who do not appear to favor strict separation of church and state.

WORLD: What makes you think that the Supreme Court will probably end up in support of the positions of Justices Scalia and Thomas—"that government may permit and encourage a kind of generic religious expression and belief, even monotheism dependent on a Creator"?

LEDEWITZ: Predicting the future movement of the Supreme Court is notoriously difficult, but reversing the lower court that removed the phrase "under God" from the Pledge of Allegiance, even though on technical grounds, was consistent with past decisions allowing government religious language in the public square, such as legislative prayers, opening the court sessions with "God save this Court," and so forth.

The current makeup of the court probably contains four justices already who endorse this position. Justice Anthony Kennedy, the pivotal fifth vote, is also not committed to strict separation. So, in the absence of reinvigoration of government neutrality and the wall of separation, which does not appear likely, permitting government encouragement of generic religious expression seems the only place the court can go.

WORLD: You suggest that secularists who seek change through the courts are the real anti-democrats. Why?

LEDEWITZ: In recent years, liberals have had a tendency to seek social change in the courthouse rather than at the ballot box. This is most evident today in the context of abortion and gay marriage. Conservative legal theory has criticized this tendency, though conservatives engage in the same judicial tactics. I point to the secularists in this regard because it is they who often describe religious voters as anti-democratic, whereas on a variety of issues, it is secularists and others on the left who seek to stymie the majority will of the voters by bringing suit. Of course, I am not criticizing resorting to the courts per se, only pointing out that those who do so cannot criticize their political opponents as anti-democratic.

WORLD: What do you make of the accusation that Christians want to establish "theocracy"?

LEDEWITZ: It is necessary to distinguish among three terms: democracy, theocracy, and constitutional democracy. In democracy, the majority will of the voters determines public policy. Thus, even if the voters enacted the book of Leviticus, that would be democratic in any fair understanding of the term. In theocracy, public policy is determined not by majority will of the voters but in some other way, often by giving clerical offices some form of veto over public policy, as in Iran.

Constitutional democracy places limits on what the majority will of the voters is allowed to enact as public policy. Thus, secular opponents might be correct, from their point of view, in accusing religious voters of undermining constitutional democracy, but not of promoting theocracy.

WORLD: You write that the Supreme Court could get around the impasse about prayer at graduation ceremonies or football games by developing a different understanding of what "government" is, and then conceiving of civil society apart from government. Please explain.

LEDEWITZ: Constitutional law conceives of only two political actors: government and individuals. The government may not foster religion but individuals have the right of free speech. This leads to the result that at high-school graduations, no prayers may be offered, but individual students are free to praise Jesus Christ. This student speech can be more disturbing to religious minorities than the nonsectarian prayer that school boards used to offer. Other groups exist between these two categories, such as parents of graduating seniors. Such groups should be viewed as civil society that is not bound strictly by the constitutional limits on what the government is permitted to do. Thus, parents should be free to work out acceptable expressions of faith for a graduation program.

WORLD: Why can those who believe in God's judgment not be "indifferent to the conduct of the nonbelieving others" in their society?

LEDEWITZ: I do not claim to be a theologian, but as I read the Bible, divine judgment operates at the level of a whole people. Thus, all Egyptians suffer in the book of Exodus, whether or not they had anything to do with enslaving the Hebrews. We see the same phenomenon today in regard to the war in Iraq and American foreign and military policy generally, which affect all members of this society. So, although I do not regard the loving relationships of gay couples, for example, as sinful in any way, religious believers who see this behavior as sinful are not necessarily free to take a "live and let live" attitude. Of course, Jesus' teaching on judgment also operates here for the Christian.

WORLD: You state that in 2006 Democratic candidates did not run on a "secular agenda—the separation of Church and State, and government religious neutrality—really anywhere in the country. There was little or no talk about getting God out of public life. . . . For one election at least, the Democratic Party accepted American Religious Democracy." What do you think will happen in the 2008 election?

LEDEWITZ: As the recent testimonies of faith on CNN by Sen. Hillary Clinton, Sen. Barack Obama, and former Sen. John Edwards demonstrated, the 2008 presidential campaign is going to be open to religious expression. Even the remaining constraint expressed last year by Obama that people of faith should express their commitments in secular language in public debate is unlikely to be heard again. Democrats nationally will not run on a secular agenda. I doubt the Democratic Party platform will call for removing the words "under God" from the Pledge of Allegiance. On the other hand, the platform won't expressly repudiate the separation of Church and State either. That would be too precipitous a change and too hard for some of the party's base to accept.

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Title: Secularism and Religion

Date: 2007-10-20T10:55:00.000-04:00

10/20/2007--Cardozo Law School and NYU Law School are teaming up for an academic conference entitled "Rethinking Constitutionalism in an Era of Globalization and Privatization". Presenters are coming from all over the world. [The dates are November 4-5,2007].One of the sessions is particularly relevant to Hallowed Secularism:

"Constitutionalism and Secularism in an Age of Religious Revival".But, revealingly, in the pamphlet describing the Conference, the session is described in different terms: "How should we understand constitutionalism in an age of religious fundamentalism?"This switch tells us two things about the essentially secular mindset of Cardozo and NYU law schools. First, the issue these legal academics are thinking about is how to protect liberty from religion. And this is by no means an insignificant question in a world in which religious thugs beat up women for driving cars. But it is not the only question. The original formulation of religious revival would have also addressed the issue of how to ensure the right to practice religion where it is threatened: for example, in China, in France, in Turkey and in the United States under the potentially oppressive regime of *Employment Division v. Smith* (1990). Conversely, one is not likely to worry about the constitutional right to practice fundamentalism.The second implication of the unthinking switch from the term religious revival to religious fundamentalism is that the secularist has a very hard time thinking of religious practice in positive terms. Religious liberty is a human right and many secularists have fought to protect it. But as this small instance demonstrates, secularists just cannot see that religious practice might enhance human life.Hallowed Secularism both seeks to teach secularism about religion and requires a change in secular orientation if it is to be possible. The Hallowed Secularist, if there is ever going to be one, will not fear religion.

Title: Humanism and Religion

Date: 2007-10-23T11:32:00.000-04:00

1023/2007--Humanism began in the Bible, with the question, "What is man that thou art mindful of him?" Psalm 8 sees the tension that humanism must always struggle with. Man is not impressive. Certainly man is not enough for God to care about. He lives only a little while and he does great evil while he is alive. He does not love himself or his fellow men. The widow and the orphan are not protected, as commanded by God's law. Yet for all that, man is glorious. The Psalm continues: Yet thou has made him little less than God, and dost crown him with honor. Thou has given him over the works of thy hands; thou hast put all things under his feet... . You cannot do better than that in stating the question of man. The Bible understood long before it was objectively true that human beings would totally dominate their world. Humans would have the capacity to destroy everything. Today, when the issue of global warming is raised, some religious believers retreat to a strange doubt that human beings could have the capacity to do so much harm. Often I have heard it said, the Earth will abide. Puny man could not be such a threat. But the Psalmist understood man's power very well. The Psalm asks the question, why did God give such power to an imperfect creature like man? This is where humanism should begin. There just is no reason for humanism to reject the Bible as its starting point. As Psalm 8 demonstrates, the Bible is a humanist document. The Bible is a celebration of man's capacities, although that celebration is mixed with a fear of man. But how could any honest humanism feel differently?

Title: End Times for Evangelicals?

Date: 2007-10-28T11:13:00.000-04:00

10/28/2007--This week's New York Times Magazine continues its almost weekly wishful thinking that the evangelicals are going away. A few weeks ago, it was Mark Lilla's article on the Great Separation of Church and State. Today, it is David Kirkpatrick's article called The Evangelical Crackup. The point of the article is that the religious right is in disarray. It cannot agree on a Republican candidate for President and may therefore have to swallow pro-choice Rudy Giuliani. Furthermore, the movement is less and less politically monolithic. Some evangelicals are emphasizing commitments they share with many liberals, such as concern about global warming. Finally, some religious conservatives are beginning to question the intensely political path that has recently been trod, as not consistent with preaching the Gospel. I'm sure the readers of the New York Times love hearing this. And it is all true. But there is much less here than meets the eye. The political problems of the evangelical movement stem from two sources. First, President Bush has done such a bad job that other concerns must take a back seat. An unpopular and unwinnable war coupled with a plummeting dollar and slowing economy crowd out other issues, even for many committed Christians. Bush's record also skews the Republican field and has led to the quirky difficulty in selecting a candidate. But the second problem is that conservative Christians to a great extent won their point. The Democratic Party has surrendered the separation of church and state, at least for popular consumption. That is why the Democrats talk so much about God. Victory always fragments a movement. Of course the Democrats have not changed their position on abortion or gay rights, but they don't emphasize these issues very much. And they certainly don't support taking "under God" out of the Pledge of Allegiance. The Democrats have recognized American Religious Democracy. That is the message the New York Times does not want to talk about.

Title: Hallowed Secularism and Materialism

Date: 2007-10-30T11:52:00.000-04:00

10/30/2007--Hallowed Secularism confronts three great traditions of meaning in our culture: religion, humanism and materialism. I have addressed religion and humanism in this blog. The next posts will deal with materialism.

On October 21, 2007, the John Templeton Foundation took out a two-page advertisement in the Sunday New York Times--a quite expensive undertaking--to introduce its "big questions" project. The question at the top of the ad was "Does the Universe Have a Purpose?" The question was put, in the words of the ad, to "leading scientists and scholars". The lineup of responders was, nine scientists, two theologians and one humanist—all eminent persons. The big questions idea is exactly the sort of thing the Foundation does. The Templeton Foundation's mission statement begins: "The mission of the John Templeton Foundation is to serve as a philanthropic catalyst for discovery in areas engaging life's biggest questions."

There are several point to note about this ad. First, the question itself: does the universe have a purpose? The question is posed from the perspective of materialism. It is a question about the physical universe. From a religious perspective the question more likely would have been, what was God's purpose in creating the universe? From the perspective of humanism, the question would have been, does man have a purpose? Apparently, the questions of religion and humanism are not as compelling as they once were. We now address our questions to nature.

Granted, the answer that someone gives to the Templeton question might involve God or man. But the question is material in its orientation.

The second point about the ad is the sort of person who would be thought able to contribute in answering the question. In the ad, the question of meaning was directed primarily, though not exclusively, to scientists.

The Templeton Foundation might have wondered how a scientist could answer a question about meaning. Scientists do not study meaning. It is not meaning that scientists are expert in. So, the fact that the Templeton Foundation assumes that scientists would have the most to contribute to this question tells us a lot. The Foundation also assumed that most people would agree that scientists have a lot to say about meaning and would want to hear from them. This says a great deal about the power of materialism. We are being told in this ad, and expected to agree, that materialism is the fundamental truth about the universe and that scientists who are expert in that materialism are the ones who can say whether materialism excludes, or does not exclude, something called meaning.

Finally, there is the kind of answer that everyone in the ad gave. The content of the answers were split, with only two “no’s” and one “unlikely” out of the twelve. But no one except Elie Wiesel answered from the standpoint of the authority of scripture. No one except Nancey Murphy, professor of Christian philosophy at Fuller Theological Seminary, answered based on the authority of tradition. The scientific account of the world was the starting point for every other commentator. For example, John F. Haught, Senior Fellow at the Woodstock Theological Center of Georgetown University, who has less professional obligation to the scientific tradition than does the average working scientist, began his statement as follows: “If we accept evolution, as indeed we must... .” Professor Haught knows that no one who wants to be taken seriously by the educated culture can afford to cast any doubt on evolutionary theory, especially not someone involved with religious issues. If you did that, if you suggested that evolutionary was in any way questionable, you would be regarded as a religious nut. This is reflective of the power of materialism in our culture.

Title: The Limits of Materialism

Date: 2007-11-01T11:41:00.000-04:00

11/1/2007--Economics is one of the most influential forms of materialism in modernity. Its limits are the subject of this entry.

I am never sure whether to say that economics is trivial, untrue or tautology. Economics is trivial in that we have always known that many people, surely most, would like to be rich. That is why Jesus talked about the power of mammon. We also have always known that people would like to pay a lower price for products that they are buying and will do so if possible. And, insofar as incentives are concerned, it had occurred to people in the past that you can catch more flies with honey than you can with vinegar. These are commonplaces, which is why economics has never seemed to me to be a real science. It is the only science, as they say, which predicts the past.

But on a deeper level, in its claim to be a universal human psychology of rational self-interest, economics is false. People don't follow that model, in several different senses. First, human behavior is not always rational. Often it is self-destructive or in other ways irrational. So, for example, the law and economics expert Richard Posner, sees rape as bypassing the dating market, as if the rapist were choosing between rape and taking a girl out for dinner and a movie. Rape is much better understood as hatred of women than as a misguided, but rational, act.

More fundamentally, people knowingly sacrifice their self-interest all the time. Soldiers throw themselves on grenades to save their comrades. Parents give their lives to the betterment of their children. Scientists devote themselves to understanding the universe rather than maximizing their earnings.

Remember that as a form of materialism, economics is not trying to explain how most people act most of the time. It is not sociology. Economics sees itself as describing forces that are always present. So, proposing counter examples does not just reduce the range of economics, it destroys its basis. Counter examples in economics operate as would exceptions to Newton's laws. There cannot be exceptions.

To counter the seeming gap between human behavior and economic theory, economics resorts to exotic descriptions of implicit markets, such as "markets" in friendship, love and respect. In other words, the parent working so the child can go to school, may never expect to be repaid in actual dollars by the child. But the parent does gain respect and love. That sort of sleight of hand amounts to saying that people always act to maximize something. This is mere tautology. It is certainly not science.

There is a sense, admittedly, in which the Christian who sacrifices his or her life for the sake of the Gospel, and who expects thereby to go to heaven for all eternity, is making a straightforward calculation of self-interest. But that description does not capture how the believer looks at the matter. The believer is simply willing to give up his life out of love.

In addition, it is not always clear to the believer that sacrifice in this life will lead to abundant life in the hereafter. It is a more accurate description of such sacrifice to say that people are capable of nobility and love.

11/3/2007--On July 16, 1945, when the first atomic bomb detonated in the New Mexico desert, Robert Oppenheimer, Supervising Scientist of the Manhattan Project, quoted the Hindu classic text, the Bhagavad-Gita: "...now I am become Death, the destroyer of worlds... ." Why would a scientist quote a religious text? There might have been no other way to say what he felt he needed to say. Justice Sandra Day O'Connor once wrote in a different context that religious language can serve purposes no other kind of language can serve. Such language, she wrote, expresses, "in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." Justice O'Connor's description lies a little flat, given what Oppenheimer had just seen. But the idea for both of them might be that religion can express depth in human life that secular concepts simply cannot. When confronted with the precise sort of potential apocalypse that religion has described, it is not surprising that prayer rises to our lips. Materialism is not an orientation that expresses meaning or significance well. The scientists involved in the Manhattan Project were busy solving problems. Making the bomb was not an experience of transcendence. But seeing the bomb explode was such an experience. We have in this example from Oppenheimer an indicator of what transcendence is. Transcendence is a sense that more than the ordinary is present in a given situation. The difference between the religious orientation and the materialist one may be said to lie in whether that sense is reflecting something real--that is, that something beyond the ordinary is actually present--or whether the sense of something beyond is just a feeling we make up. No one denies, however, that we do feel it. Oppenheimer felt it. In theory, the scientist who feels what Oppenheimer felt does not need something called Hallowed Secularism. Such a scientist could simply refer to his or her own religion for the felt necessity of depth. But that was not what Oppenheimer did. Oppenheimer was not speaking as a believing Hindu. He was not engaging in a full theological expression from within any particular religion. Instead, he was seeking a connection to religion, or religious insight, without the baggage of doctrinal commitment. That is what Hallowed Secularism offers--a connection between our religious traditions—Our Religions—and the life of materialism. It is a way for the non-believer—Oppenheimer attended Ethical Culture School before college—to connect with transcendent traditions. This is an important contribution that only Hallowed Secularism can make.

11/5/2207--Beyond the need for expressing the transcendent, there is a second aspect of the need to connect the materialistic scientist with religion. The mature scientist should realize that he himself is in question in his investigations. Here is something else Oppenheimer said at the time of the bomb test that refers to the religious overtones of his experience: "In some crude sense which no vulgarity, no humor, no overstatement can quite extinguish, the physicists have known sin, and this is a knowledge which they cannot lose." It is possible that Oppenheimer here was referring only to the sin of others, to the sin of man, for example. But, given his involvement a year later in the 1946 Acheson-Lilienthal plan for international atomic control, it seems to me that the sin to which he referred was also personal. I don't mean by calling it sin that something was done that should not have been done. Rather, I am referring to the ambiguity of any action in a fallen world. In the circumstances of World War II, producing the atomic bomb was particularly in that category of ethical ambiguity. The bomb was and is a horror. Yet, its development potentially protected the world from a Nazi bomb, and its use saved thousands of lives, including Japanese lives. The scientist cannot help but be guilty. Materialism likes to pretend that the human being who investigates the natural world is not himself at stake in the investigation. The world is composed of forces, but the scientist is motivated by something quite different—perhaps a love of truth. Or, people operate in self-interest, but we can still trust the law and economics professor to be a fair-minded federal judge. This sort of alienation of the scientist from his own conclusions is unhealthy and undependable. In talking this way and thinking this way, the materialist exempts himself from the implications of his own thinking. The religious traditions are much more holistic in their treatment of scientific investigation. One such example is the book, *Insight*, by the theologian Bernard Lonergan, which studies human understanding itself, including investigations by science of the natural world. Lonergan includes his own thinking in his investigation. Since Lonergan does this, at least in *Insight*, outside any particular doctrinal tradition, we may think of him as an exemplar of what Hallowed Secularism could be like. I don't mean to press this point very far, since Lonergan also wrote *Method in Theology* based in large part on *Insight*, but the point is still valid to an extent. This is the sense in which materialism needs to ground itself in a tradition larger than itself. Materialism needs a larger tradition to account for its own human activity.

Title: Interview in Pittsburgh City Paper

Date: 2007-11-08T09:19:00.001-05:00

11/8/2007--Printed from the Pittsburgh City Paper website: pittsburgh.gyrosite.com

POSTED ON NOVEMBER 8, 2007:

Author and Duquesne University law professor Bruce Ledewitz says secularists could use a little more religion in their politics.

By Bill O'Driscoll

"Not the dogma, not the doctrine": author Bruce Ledewitz.

If you consider politics and religion the third rails of sociability -- touch them and the conversation dies -- you might want to reconsider asking Bruce Ledewitz to your next party. The Duquesne University law professor is a secular Jew and anti-death-penalty activist whose recent book *American Religious Democracy: Coming to Terms with the End of Secular Politics* (Praeger Publishers) announces that the wall between church and state has crumbled -- but also that a religious component of politics is good for us. As he writes, "Millions of Americans absolutely deny ... that it is legitimate for the voters to attempt to legislate God's will." But this form of secularism, he argues, was bound to crumble -- partly because it requires transcendent values of its own.

Ledewitz is on sabbatical to write (and seek a publisher or agent for) his planned follow-up book. Its working title is *Hallowed Secularism: A Guide for the Nonbeliever*, and you can follow its progress at Ledewitz's blog, <http://www.hallowedsecularism.org/>.

What's *Hallowed Secularism* about?

[T]he big question is, what is [secularism], exactly? Right now, it's scientists who say that people who don't believe in evolution are stupid. And [that's] true -- but that's not a philosophy to live by. This book argues that secularism has to be religious. It has to be grounded in the same kind of insights and worldview that religious people have, just not the details. Not the dogma, not the doctrine. There's no God, there's no being outside time and space who has a plan -- nothing that violates the laws of science.

But then what? How do you live your life? Jesus says that he who would save his life would lose it. There's something to that. If your concern is yourself, and keeping your stuff, and owning the people around you, you will lose your life. He's right! And only by giving your life up, to something greater -- and what's greater than loving your neighbor? I think we'd all be better off reading the New Testament and trying to live like that. We [secularists] just don't think that Jesus is the son of God.

When did you start to think of yourself as secular?

Really it was the result of writing [*American Religious Democracy*] that I had to admit that I am in fact a secularist. I'm writing about myself.

That recently?

A lot of Jews don't believe in God. But I finally began to see that if I can't be honest about myself, how can I expect to talk to other people?

And you contend secularism is spreading?

The longer-term trends are not really in dispute. We are much more secular today, and young people are much more secular today, than 50 years ago. Pushing that agenda, in 1947, was just too early. Religious people have a right to have an American religious democracy right now. They're the majority. But they're not going to remain the majority forever.

Title: What's Wrong with Charles Taylor

Date: 2007-11-10T09:26:00.000-05:00

11/10/2007--We are all going to have to come to grips with secularism in the light of Charles Taylor's monumental work, *A Secular Age*. My next few posts will attempt to do that. Let me say at the outset, however, what the fundamental problem is. Taylor's work lacks the category of truth. Or rather, we have to go through 768 pages to get to the real point, four pages before the book ends: "In our religious lives we are responding to a transcendent reality." Then he adds, really insult to injury in light of all that has gone before... "We all have some sense of this..." Taylor does not even dare to call this truth. He calls it one of two alternative futures of secularism. Coming to this truth, for that is what it is whatever Taylor calls it, at the end of the book renders the book either pointless, or merely a history of secularism we ought to know before beginning the real work of encountering transcendence within a genuinely secular frame. That would make the book worthwhile, but not that important. *Hallowed Secularism* begins where Taylor, unfortunately, ends--the very point at which we must now live.

11/13/2007--My colleague and teacher, Robert Taylor, opened his Law and Religion lecture yesterday with the following question: "What is the human being essentially? We are pulled by a mysterious attractor at the center of things. We are not that existentially, but we are that essentially." I was greatly moved by the truth of these statements. They show the impossibility of considering the rise of secularism within the framework of a tension between the immanent and the transcendent. For the "pull" at the heart of our lives is immanent, in the here and now. Yet, it pulls us out of the immanent into the beyond. Obviously, the mysterious pull can be thought of in religious terms. Yet, secular life can also be thought this way, in terms of the pull. Certainly there is nothing here of dogma or doctrine. The pull is a question concerning what human life is like as lived experience. In contrast, Charles Taylor tells the story of the secular age in terms of the "distinction transcendent/immanent"(15). If he had not looked at the story in those terms, his history and speculation would have been very different. He might have told a story of the constant return of the transcendent through new secular/immanent forms. This, I think, would have made for a vital and revolutionary book. Taylor's goal is to describe the history of an argument, a debate, between religious and secular people. This is why the book, for all its marvelous erudition, falls somewhat flat. It is limited to the terms of that debate. The book does not attempt to answer the question for us, which is, what are we to do now? The answer to that question, given what Professor Taylor has told us, is openness to the mystery of the pull at the heart of things. How to do that is quite a different matter. Doing that—opening ourselves, which is, of course, not a doing—is not aided in any way by talk of the immanent in contrast to the transcendent.

Title: American Religious Democracy in the News

Date: 2007-11-15T10:52:00.000-05:00

11/15/2007--This is what I heard on the news this morning. Georgia Governor Sonny Perdue leads a prayer vigil for rain. Meanwhile, GOP Presidential candidate Mitt Romney tries to figure out whether to address his Mormon faith directly, before the South Carolina primary. And the United States Conference of Catholic Bishops issues voting guidelines for the faithful in the 2008 elections. I suppose the Democratic Presidential candidates were continuing their praise-of-God tour, but that information was too predictable to make the morning news. Sounds like the title of my book, *American Religious Democracy*. Of course, everyone knew that religion in America is politically important. My book merely expressly challenged the secular litany that ours is a secular democracy. It is not. The above account of the day's news should also remind us that there is nothing neutral about the secular proposal of separating church and state. For example, I heard one critic complain about the Governor of Georgia adding his official presence to the private prayers for rain that ordinary people were no doubt already uttering. This was a violation of the separation of church and state. But this complaint, which is perfectly reasonable if government is not supposed to be involved in religion, supposes that there is no God who can make rain. For everyone would have to agree that if there were a God who could end the drought, then, given the catastrophic nature of the drought, it would be a governor's civic obligation to propitiate that God and to pray for rain. Thus, to claim a separation of church and state is to take a theological position either that there is no such God or that whatever God exists does not do rain. There is nothing neutral about religion here. Separation is a religious claim (or, you could say, an anti-religious claim—still, not neutral). I need to add that I agree with the theology of the critic. There is no God who makes rain. But I understand that statement as the theology that it is. It is the theology of secularism. So, what does the Hallowed Secularist say about prayers for rain? That will await the next blog entry.

Title: Prayers for Rain in Georgia

Date: 2007-11-17T07:35:00.000-05:00

11/17/2007--What is the Hallowed Secularist to make of the recent public prayers for rain in Georgia? I am not referring her to the separation of church and state, but to the theology behind the act. For the secularist, there is no God who could end the drought. But, does this mean that public prayers of this sort of are harmful? Not necessarily. Such prayers might be thought of as charming relics of a religious past that no one really expects to work. It did rain in parts of Georgia two days later, but even conservative Christians were hesitant to attribute this to God. Perhaps even believers accept the materialist paradigm for things like rain. A friend of mine suggests that such prayers are beneficial because they remind people that we are not in charge of everything. This is an important point. Hallowed Secularism emphasizes that very point in terms of history. Yet that notion—that man is not in charge—is a double-edged sword. John Bolton, the former UN ambassador and staunch conservative, recently suggested in the New York Times that temperatures go up and down and that man cannot affect that. This is an example of the strange fatalism that conservatives fall into when the subject is global warming. They don't speak this way about dictatorial regimes about to develop nuclear weapons. They would not say about Iran, for example, well, you always have dangerous dictators in the world. There is not much to do about it. They only adopt this comportment about man and nature, and even then not about drugs or other things. So, man not in charge is a complex matter. (I'm sure I could find equally strange examples on the left). I admit that I don't like prayers for rain and similar entreaties. What bothers me is how unbiblical they are. How would a biblical person approach a very bad drought? Like the passengers with Jonah, such a person would doubtless ask not just for help from God, as they did in Georgia, but would ask what he or she had done to anger God and bring this natural harm to pass. But modern believers seem to want the good from God—help in this case—without any notion of sin. Even without any suggestion of global warming being involved, the Atlanta region has known droughts before. Atlanta has done nothing to curb its growth or to bring its growth into line with its resources. In other words, this is not a case of attributing tornadoes to gay rights. One doesn't have to look very far to see greed and an absence of gratitude exacerbating the lack of rain. I am not singling out Atlanta. I am saying that treating God as a mere dispenser of benefits is a typical modern belief. What this represents is not religion, but an unhealthy secularism with a thin cover of religious language. Such prayers for rain have nothing to do with the Bible. Ironically, I hope that Hallowed Secularism will more closely follow biblical belief.

Title: Antony Flew Finds Religion

Date: 2007-11-19T15:33:00.000-05:00

11/19/2007--The New York Times ran a story in its Sunday Magazine a few weeks ago about the meanderings of Antony Flew on the subjects of God and religious belief. Flew has been famous since the 1950's for his atheism. In recent years there have been indications that he might be changing his mind and might now believe in a kind of Prime Mover that created the universe but does not interfere with things. The article concerned the charges and counter-charges that Flew's mind is failing and that certain Christians are taking advantage of his failing mental capacity to plant suggestions in his mind that do not represent his position. Believers who are involved with Flew deny this and point out that for a number of years Flew has been moving in a less atheistic direction; there does not seem any doubt that that has been the case. The story acknowledges that this prime mover or deist God, which Flew associates with the beliefs of Thomas Jefferson and other deists, is not concerned about man's activities. Certainly this is not the God of the Bible. What seems to be at stake in this dispute are the claims of intelligent design to scientific respectability. Flew recently supported the teaching or at least acknowledgment of intelligent design in British schools. Lost in this controversy is the question whether Jefferson really did believe what is now being attributed to him. Readers of this blog are aware of Jefferson's famous pronouncement concerning slavery that he feared for his country because of God's justice. Much more important than whether God intervened to create the complex eye or even create the universe is the question whether there are certain norms that have power in history. To put it bluntly, does justice roll down like waters, as the prophet said, or not? If it does, the believer will say that God intervenes in history. The hallowed secularist does not speak in these terms, but holds just as tightly to the shape of history as does the believer. These debates about creation are one more indication of the power of science and materialism. This new Flew, whom some believers welcome so ardently, denies the power of morality. Really, who cares about a God like that? If such a God exists, so what?

Title: Philip Pullman--Author of Hallowed Secularism?

Date: 2007-11-21T13:29:00.000-05:00

11/21/2007--Now that the movie, *The Golden Compass* will soon be appearing in theaters, it is time to ask just what is the theology of author Philip Pullman, famous for his atheism and attempts to kill God in his work. Upon closer examination, Pullman is quite religiously oriented. In fact he may be the first author of *Hallowed Secularism* since E. L. Doctorow. Here is how Pullman is described in a December 2007 *Atlantic* article by Hanna Rosin (herself the author of *God's Harvard*, so she knows a thing or two about all this): "Pullman's own books are full of the mysticism and grandeur often associated with religion, which is no doubt part of their appeal. 'We need joy, we need a sense of meaning and purpose in our lives, we need a connection with the universe, we need all the things the Kingdom of Heaven used to promise us but failed to deliver,' he said in a 2000 speech. When pressed, Pullman grants that he's not really trying to kill God, but rather the outdated idea of God as an old guy with a beard in the sky. In his novels, he replaces the idea of God with 'Dust,' made up of invisible particles that begin to cluster around people when they hit puberty. The Church believes Dust to be the physical evidence of original sin and hopes to eradicate it. But over the course of the series, Pullman reveals it to be the opposite: evidence of human consciousness, a kind of godlike energy that surrounds everyone. People accumulate Dust by 'thinking and feeling and reflecting, by gaining wisdom and passing it on'. It starts to build up around puberty because, for Pullman, sexual awakening triggers the beginning of self-knowledge and intellectual curiosity. To him, the loss of sexual innocence is not a tragedy; it's the springboard to a productive and virtuous adulthood." So there is a power in the universe in which human beings can participate and which is associated with certain normative standards of conduct. Participation in this power changes things in the world and the power is not created nor controlled by humans. Sure sounds like *Hallowed Secularism*.

Title: Hallowed Secularism and Thanksgiving 2007

Date: 2007-11-24T11:27:00.000-05:00

11/24/2007--It may just be my own family circumstances. I am visiting my gravely ill mother this year. But it seems to me that Thanksgiving this year was unusually devoid of giving thanks. There was football and that was about it. Has our culture finally and irretrievably lost the capacity for thankfulness? Of course it is true that things are not very good for America right now. We are bogged down in a war that does not promise victory no matter what happens. The best that can happen is a stable, Iranian leaning Shiite government. The economy is bad. The dollar has crashed. The Democrats are not igniting popular hope, at least not yet. So, what is there to be thankful about? Christians ought to be more concerned about renewing Thanksgiving than about putting Christ back in Christmas. Christmas is narrow in appeal. It is a Christian holiday. Thanksgiving is potentially all-encompassing. A genuinely religious spirit in Thanksgiving would really change the culture of this nation. And such a change would in fact promise to reduce the commercialization of Christmas as well. Thanksgiving is the first American holiday of Hallowed Secularism. So I have a particular commitment to it. We need to think about recovering its meaning. Two Jewish holidays come to mind in regard to Thanksgiving: Succoth and Passover. Succoth is the precursor to Thanksgiving as the fall biblical harvest festival. Passover is the family meal holiday, like Thanksgiving in that way. So, we need to think about nature themes for Thanksgiving—the ways in which we are cared for by the world. And we need texts for the meal, like the Jewish Haggadah used at Passover, which will serve to cement the themes of the day. Otherwise, Thanksgiving will just slip away into football, family and shopping.

Title: Mike Huckabee's Chances

Date: 2007-11-28T13:11:00.000-05:00

11/28/2007--Jim Stratton of the Orlando Sentinel reported today the endorsement of Mike Huckabee by influential Florida State Senator Daniel Webster. Webster is one of those social conservatives that some had been saying had lost influence in the Republican Party. I don't know what is going to happen in the Republican race. But I will repeat what I have said elsewhere on this blog; I just cannot see the Republican Party nominating a pro-choice candidate for President. I don't think that the religious right has lost influence, especially in the Republican Party. What has happened is that a peculiar combination of odd candidates has diffused their votes. Huckabee looks like he could have been their candidate, but he was not taken seriously. Maybe that is changing. There are secularists who would prefer that religious voters fade from the scene. George Bush's performance as President has no doubt discouraged them, as it has all of his supporters. But fundamental political groupings do not shift rapidly. It would make more sense for secularists to come to terms with religion. But, that, of course, is the point of this blog and more generally my work.

Title: Huckabee on Hardball

Date: 2007-11-30T11:19:00.000-05:00

11/30/2007--This blog is not going to become the Mike Huckabee site, but there is one important fallout from the Republican debate in Florida Wednesday night. Chris Matthews had Huckabee on Hardball on Thursday night and asked Huckabee why none of the Republican candidates had objected to questions about their religious beliefs. Matthews kept referring to the constitutional prohibition on religious tests for office in Art. VI, section 3: "but no religious test shall ever be required as a qualification to any office or public trust under the United States." Matthews wanted to know why no candidate objected on constitutional grounds to questions about religious faith. This is a very important point. As I tried to explain in my book, *American Religious Democracy*, the religious test language is a limit on legal qualifications for office, not a limit on democratic decision making. A voter who says I want to vote for a Christian is not acting unconstitutionally. Voters do not have to ask permission to justify their reasons for voting. This would be true even if there were no public policy implications of the Christian faith in the context of the Republican Party. But, there are in fact such implications as we all know. Christian is short-hand for pro-life and anti-gay marriage. Even Matthews would agree that this is a proper basis for voting. But the claim of faith can also mean the opposite. If I think a candidate is a faithful Christian and that candidate then supports something I thought had nothing to do with the Christian message, I may be willing to listen. Something like this is happening with some Christians and the issue of global warming. On one point, Matthews exposed an important inconsistency in the Huckabee "Christian leader" message (that is a line from a Huckabee commercial). On poverty issues, Huckabee claimed his Christian faith makes a policy difference. But on the death penalty, Huckabee more or less claimed he was merely following the law. This is certainly trying to have it both ways. Huckabee needs to be reminded that Jesus did not just "review each death penalty case carefully." Jesus forbade sinners from carrying it out (let he who is without sin...). So, unless Huckabee is without sin, he cannot as a Christian cast the stone—sign an execution warrant. Since Huckabee did so and is proud of it, he is the typical religious hypocrite.

Title: Theology and Hallowed Secularism

Date: 2007-12-04T11:07:00.000-05:00

12/4/2007--I have been reading John Milbank's *Theology and Social Theory* and although I am not going to rewrite my book to add his voice to the few instances in which he is in there already, it is exciting to see how theology has already begun to anticipate *Hallowed Secularism*. Sometimes Milbank criticizes this theological tendency as insufficiently Christian. For example, Milbank criticizes the thought of Karl Rahner because Rahner understands "Christian revelation and Christian teachings as just expounding, or making 'explicit' the universal availability of grace." (224) But Rahner, if this is fair to him, is showing secularists precisely how to reinterpret the Christian message in universal terms. And a category, such as grace, if reinterpreted, can be understood in secular terms. That is precisely why Milbank disagrees with Rahner. [Rahner might reject that reading too.] But Milbank praises what seems to me to be the same tendency to universalization in Luigi Sturzo, the opponent of Mussolini, who in *The True Life: Sociology of the Supernatural*, argued that human community, specifically the Church, is supernatural. Sturzo meant by supernatural, according to Milbank, an "objective human finality [that] is encountered and partially realized" (226) as groping towards the true life as proper relation to God and to fellow human beings. Supernatural means "super-added finality." You could say the objectively proper way to live. Secularists have no reason to doubt all this. They just doubt that the Church is moving toward this proper way to be. We don't doubt that there is one. Otherwise secularism is just nihilism. But the evidence of human existence does not support nihilism. There is more to this world than its surface. I can hardly wait for the explosion that awaits the secular rediscovery of theology.

Title: Mitt Romney's Talk on Religion

Date: 2007-12-07T11:42:00.000-05:00

12/7/2007--Governor Mitt Romney gave a very confused speech about the relation of religion and public life yesterday. For starters, Romney refused to speak specifically of Mormon beliefs. To do so, he said, would amount to an unconstitutional religious test for office [for background on that test, see blog entry of November 30, 2007, below]. But Romney nevertheless did address, very specifically, his belief that "Jesus Christ is the Son of God and the Savior of mankind." Pardon me, but for Jews and Muslims, belief in Jesus sounds very much like the same kind of religious test.

Why did Romney speak of Christ this way? Romney's basic message in the speech was that every religion, including, by implication, the Mormon faith, "draws its adherents closer to God." This was supposed to put to rest questions about his faith in particular. Romney's problem, though, is with Christian voters and it is a problem an Orthodox Jew like Senator Joe Lieberman would not have. Christian voters would probably vote for a non-Christian, but pious, believer, on the ground that all religious believers share important commitments. This is what Romney was trying to suggest about himself. His problem is that some Christians view the Mormon faith as a Christian heresy. It is far harder to vote for a heretic than for a genuine believer in another faith. This is why Romney had to establish his Christian belief in a speech in which it had no place.

The other important inconsistency in the speech was the attack on secularists. Unlike JFK in 1960, Romney could not defuse the Mormon controversy by appealing to the separation of church and state in a way that suggested that religion is private and not a public matter. The Republican base to which Romney is trying to appeal does not believe that. They believe that public policy in some way should reflect religious values. Romney agrees with that. This was the gist of Romney's attack on secularists who want "to remove from the public domain any acknowledgment of God." They are wrong, says Romney, because religion does have a place in public life.

But, then, why doesn't a voter have to know what a candidate's religious commitments are? Those commitments might, by Romney's own acknowledgment, have a place in his policy making. And those religious commitments could not be known, in Romney's case, without explaining Mormon belief.

Romney could not explain Mormon belief, however, because, like other religions, those beliefs might sound odd at first. The middle of a campaign is just not the place for such education. I don't mean that the Mormon faith is odd—after all, Jews remove a portion of a male baby's male organ and some Christians believe they are drinking Christ's blood in the Eucharist—only that we become used to other such practices over time.

Romney is not the first to run afoul of the relation of religion and public life. Readers of this blog know that I called Mike Huckabee, whom I admire, a "typical religious hypocrite" last week for also trying to have it both ways. But Huckabee is in a much better position than Romney on this issue. I don't think this speech has accomplished what Romney needed it to do. Romney had 5 months to nail down the social conservative opposition to Mayor Giuliani. This speech certainly is not going to do what Romney failed to do in all that time.

Title: More on the Romney Speech: Liberal Reaction

Date: 2007-12-11T14:07:00.000-05:00

12/11/2007--The New York Times Saturday edition (12/8) published seven responses to the Romney speech on Faith in Public Life. Four of the seven reflected a liberal perspective that criticized Romney and/or the Republican Party for blurring the line between church and state. These writers believe that religion is a private matter with little or no appropriate public role and that the framers of the Constitution meant to prevent the sort of speech that Romney delivered. As to the private nature of religion, this is not what Thomas Jefferson—the author of the Wall of Separation metaphor—thought. In the Jefferson Memorial one can read of Jefferson's fear for our nation concerning slavery because God's justice will not sleep forever. When Moses demanded that the Hebrew slaves be freed, should Pharoah have accused him of blurring the line of separation between church and state? Why do non-believers or liberal believers get to decide what kind of religion people are allowed to believe in? Religion is only private in a world of hyper individualism. As for the framers, when the subject is religion, liberals sound like Justice Antonin Scalia talking about textualism. I don't know what the framers meant concerning religion. I am confident, however, that the framers never intended to legalize abortion, grant equality to women or rights to gays. Does that mean that these constitutional commitments will now be abandoned by liberals? Of course not. We cannot turn constitutional interpretation into a fruitless search for a meaningless original intention. The framers could no more make us secular than they could make us laissez faire. These are matters we must decide.

Title: Physician Assisted Suicide

Date: 2007-12-13T14:42:00.000-05:00

12/13/2007--What is at stake in the proposed 2008 Washington State referendum on physician assisted suicide? The State of Washington allows voters to pass laws directly and physician-assisted suicide may be on the ballot there in November 2008.

The New York Times Sunday Magazine on December 2 ran a thoughtful article by Daniel Bergner dealing with this issue in general and the Washington State context in particular. Former Governor Booth Gardner is pushing the initiative. Gardner has Parkinson's disease, which he says has personalized the issue for him. The religious opposition was symbolized in the article by Gardner's son. The secular opposition was represented by University of Minnesota Law and Medical Schools Professor Susan Wolf.

Gardner's position was dramatically and simply set forth: "My life, my death, my control." His son's position was equally clear: "Dad's...trying to usurp God's authority."

But what of the secular opposition to physician-assisted suicide? Referring to the slogan of "my control", "Wolf wondered whether autonomy was equally available to everyone. Absolute claims of individual rights...wrongly assume that all face serious illness and disability with the resources of the idealized rights bearer—a person of means untroubled by oppression.'" In other words, older women and persons with disabilities will be told one way or another to move on in a regime of assisted suicide.

Professor Wolf is right about that and it is a good enough reason to oppose the Washington initiative. But Hallowed Secularism does not accept the starting point of autonomy. Professor Wolf may be read to suggest that in an ideal world, each person would be in control. Hallowed Secularism points out, instead, that human beings are not in control. We don't control the world or even our own lives. And when we try to do so, we experience global warming and other environmental harms collectively and alienation individually.

I cannot say with Gardner's son, God will decide when I die. There is no cosmic will in charge in that way. If there were, I would be angry with it. But in a more generalized sense, something is in control rather than we. We could call it the tide or history or the power of good. And we must try to act in accordance with it. But there is both no one to ask for a time to die, nor is it sound for man to try to control his own mortality.

I saw this with my mother, who at this time is in Hospice. It had been her plan to kill herself when she was diagnosed with terminal cancer. She never got the chance. And then, because she did not want to lose control, she refused the full range of medication that Hospice was offering. At a certain point, I urged her to let go and not try any longer to rule. For my mother, as for me, this was not giving in to a superior will, like a God. It was a renunciation of a power that we never have to begin with. We only think we do.

So my mother finally did give up control and took the drugs and is now resting comfortably. Finally, she is in comportment toward the universe in a little more reasonable way.

Title: More on Philip Pullman

Date: 2007-12-19T08:01:00.000-05:00

12/19/2007--I saw Philip Pullman's *The Golden Compass* last night with my daughter. It was a little jumbled, as people say, but the basic ideas are clear enough. In terms of what people are thinking about an atheistic message, there simply isn't one. There is talk about free will and the Catholic Church is absurdly caricatured as the corrupt, all powerful Magisterium, but this is mere anti-Catholic bias on Pullman's part. It isn't anti-God. And free will is praised at the same time that a prophecy tells of the coming of something like a Messiah. The movie actually reminded me of *Dune*. Pullman is implicitly criticizing C.S. Lewis. In his anti-Narnia, girls are intelligent and powerful and people like sex. But to consider this anti-religion is to assume that religion is inherently sexist and conventional. On any fair reading, and making allowances for a much more conservative culture, Jesus was neither. Nor was Moses. Nor was Mohammed. Religion is more than a socially conservative response. In fact, insofar as the culture is corrupt, religion is radical. Who opposed the end to welfare? Who today risks prison to shelter hunted illegal aliens? You don't have to agree with these positions to see that they are more than social conservatism. Pullman clearly wants to be an anti-religious humanist. But he is too good a novelist to pull it off. I mean by that, that he sees the magic in life. *The Golden Compass* is filled with transcendence. There is nothing anti-religious about it.

Title: Comfort at a Funeral

Date: 2007-12-20T08:18:00.000-05:00

12/20/2007--Philip Kitcher writes, in *Living With Darwin*, that the atheist case is no comfort at a funeral. This, he thinks, is part of the reason that atheism does not catch on. Kitcher is thinking about Christianity. At a Christian funeral, one would expect to hear both that the deceased is now in heaven, where the living might expect one day to be reunited, and that on the last great day, all believers will be all be resurrected. Kitcher considers that a false hope and he recognizes that he has no alternative hope to offer. But last night there was a memorial service for my Mom. At this service, there was no talk of heaven or resurrection. We did not expect to meet Mom again. We don't think of her as now young and healthy. The theme was her life of service and family and how remarkable she was. She was a blessing. And this is how the Old Testament, the Torah, regarded the life of Abraham. He was not in heaven or to be resurrected. Abraham's immortality lay in the promise for his descendents. Nor was the tone of my Mom's funeral much different from that of an orthodox Jewish funeral. And there are other religious traditions that would not promise future life, but which are a comfort at a funeral. The point is that, as usual, atheism both underestimates religion and is complacent toward itself. Religion is not inherently a fairy tale that grown people should not believe. It is potentially a real and positive way of life. And atheism is empty because it refuses to address candidly the question of human life—why, which just means toward what end, are we here? What is our meaning? Kitcher is right that religion is a comfort at a funeral and atheism is not. But the reason is that religion is engaged in the human condition and atheism is a bystander.

Title: The Evangelical Stance on Global Warming

Date: 2007-12-23T10:46:00.000-05:00

12/23/2007--I was very sad to read the most recent issue of World, the excellent Christian news magazine. The issue contained a story by Mark Bergin that repeated the usual positions taken by many conservative Christians concerning global warming: there is scientific dissent on the matter, warming may be beneficial, and natural cycles rather than human activity may be causing any warming that is going on. It is not so much that these positions are wrong, which they are, but that conservative Christians as a whole, and with exceptions now, would prefer that global warming not be true. I mean by this that the near scientific unanimity on the topic would normally be enough proof, unless there were a reason not to accept the conclusion. For example, there is much scientific consensus about evolution, but insofar as evolution contradicts the Bible, there is a reason to be skeptical of the data. But global warming does not contradict the Bible. So there should not be any reason for Christian skepticism. People would not lightly talk about a momentous change like warming the global climate as a likely "good thing" unless there were some reason. Nor would one conclude that a mysterious natural cycle is causing something that had been predicted according to increased human contributions of greenhouse gases. Of course there could be such a coincidence—a natural cycle taking place just as human carbon use is going up—but why not just accept the most obvious explanation that we are doing this? In other words, why do some Christians want global warming to be false? One telling of the global warming story could be that man is greedy and misuses God's gift of a beneficent world climate. Surely that would be a biblical perspective on human sinfulness. Why isn't World magazine criticizing industrial capitalism for forgetting God? Part of the reason may be that conservative Christians got into the habit of supporting capitalism when Communism was plainly atheistic. This is also why some Christians support a weak central government and low taxes when those categories seem irrelevant to biblical concerns. But, accepting global warming need not lead to top-down solutions. A carbon tax would allow the market to cut greenhouse emissions. Carbon trading also introduces market discipline to the global warming issue. I don't understand this opposition and I am sad. It makes Christianity look like mere apology for wealth accumulation. World Magazine is not alone. Richard Neuhaus's magazine, First Things, also loves to make fun of global warming concerns. I would just once like to see the theology of such a position explained.

Title: The Neocons and Religion

Date: 2007-12-28T10:31:00.000-05:00

12/28/2007--Craig Unger, whose previous book, *House of Bush, House of Saud* (2004), exposed the links between the Bush family and the Saudi Royal family, has a new book that purports to show the role of true believers in the Bush Administration: *The Fall of the House of Bush: The Untold Story of How a Band of True Believers Seized the Executive Branch, Started the Iraq War, and Still Imperils America's Future* (2007). The secular left is trumpeting the book because it links two favorite themes: the evil of the neocon architects of the war in Iraq and the evil of the Christian Right. Both are true believers. Here is one such blurb—from the magazine *Radar*—"Unger's subject is the war that really matters: the one between Islamic, Jewish, and Christian fundamentalists on one side, and the scientific (reality-based!) post-Enlightenment world that some of us still prefer to inhabit." Now, I have not read Unger's book, but the excerpts in *Salon* suggests that there are three main themes: that President Bush's father opposed the war; that Bush's religious conversion experience was not sincere and that Dick Cheney took over the Administration's foreign policy. Those items are not much of a story of the influence of the religious right. In fact, Unger suggests that President Bush's commitment to Christianity might be politically manipulative, a suggestion that is consonant with the experience of David Kuo in the Administration Office of Faith-Based and Community Initiatives (*Tempting Faith: An Inside Story of Political Seduction*). The neocons are simply not religious people. Think of Dick Cheney or Donald Rumsfeld. These are secular people, not warriors for Christ. Their vision of the Middle East is one of secular democracy and market capitalism. They are not envisioning the Kingdom of God. Some of the neocons are Jewish: Paul Wolfowitz, for example, and Richard Perle. These men may be committed to the interests of the State of Israel and certainly they believe that those interests and the interests of America are consonant. But you would hardly call them spiritual. The failed neocon vision was from the start secular and economic. I don't mean it was evil. There is nothing wrong with the desire to bring democracy to millions of people who live under dictatorship. But its failure should in no way be blamed on religion. Indeed, it should be remembered that the same Christopher Hitchens who attacks religion, supported the Iraq War. If you want to see persons of genuine piety grapple with the violent realities of the world, in their different ways, look to the proposals of Barak Obama and Mike Huckabee.

Title: More on Craig Unger the Neocons and Religion

Date: 2007-12-29T16:02:00.001-05:00

12/29/2007--Generally I would not comment on a comment to this blog, but Craig Unger objected to my comment yesterday concerning his book: *The Fall of the House of Bush: The Untold Story of How a Band of True Believers Seized the Executive Branch, Started the Iraq War, and Still Imperils America's Future* (2007). Mr. Unger objected to my critiquing his book when, as I admitted, I had not read it. This would be a reasonable objection except that I was not critiquing his book, or at least I didn't think I was doing so, but the reception of it by the secular left. Maybe Mr. Unger did not link the neocons and the religious right, or religion in general. But that is how his book has been received—and praised. They are all true believers who don't care about facts. My point was and is that the neocons as a group are not religious persons. Their ideology is not religious. Religion has enough to apologize for without being blamed for the war in Iraq. It is true that many of President Bush's allies supported the war, including many on the religious right, but that does not link the neocons, who came up with the idea and pressed it within the Administration, to religious themes.

Title: Curtis White in Harper's Magazine

Date: 2007-12-31T08:53:00.000-05:00

12/31/2007--If you want to see an example of a secularism open to the transcendent and able to translate back to religion and forward to non-believers, take a look at Curtis White's Hot Air Gods essay in the December 2007 Harper's Magazine:<http://www.harpers.org/archive/2007/12/0081804>Meanwhile, to all a Happy and Healthy New Year.



POSTS:
2008

Title: The Failures of Secularism

Date: 2008-01-01T14:11:00.000-05:00

1/1/2008--Here is an example of the trouble with secularism. My wife and I attended a small, progressive church in our neighborhood on the Sunday between Christmas and New Year. In an unassuming sermon, the minister urged those present to “be the good news of Christ to those less fortunate—the lost, the poor, the depressed.” Patt and I belong to a neighborhood group in Pittsburgh that is very close to this church in demographics and location. In our neighborhood group, however, we do not speak of service to the community very much. We are more likely to talk about how to protect our neighborhood from the threatening forces of urban decay. As you and I know very well, the difference in these two experiences is not that the churchgoers go out en masse to serve the world. We are all hypocrites, including churchgoers, neighborhood group members and blog authors. There are, however, two differences between the church and my neighborhood group. First, there actually is a small difference between what the Christians do compared to the non-Christians. The church is more likely to serve the downtrodden and less likely to view them as a threat to be avoided than are the rest of us. You can’t hear the message to be Christ to my neighbor—which is what Paul meant by “Christ lives in me”—52 times a year without some effect, however small. The second effect is more subtle. The cosmic scale that the church introduces—to be Christ is to participate in the ultimate human reality—creates the possibility of radical engagement and personal transformation. A young person might be set on fire for love and justice in the church. But this would never happen in a neighborhood group or any other secular setting I can think of. Indeed, the New Atheists, such as Mark Lilla, distrust the promise of transformation. They feel the same way that the Seventeenth Century did about religious “enthusiasm”—that it is a harbinger of fanaticism. But human beings need the hope of change. And beneficent, radical change is possible. The slaves are freed. Women are liberated. Human rights established. And such change becomes more possible when we are taught to be its agents. Secularism must learn how to be open to this.

Title: Charles Taylor: A Secular Age

Date: 2008-01-03T08:49:00.001-05:00

1/3/2008--Will anyone actually read these 776 pages?

Unfortunately, Professor Taylor's book demonstrates that you can get to be too important for an editor to have any effect.

One reviewer called the book repetitive, which it is. (Taylor even uses phrases such as "As I said before... .")

Nevertheless, the book is monumental and students of religion and secularism really will have to plow through it. This will be the first posting of several to come as I finally finish the book. I did not have it during the period I wrote the manuscript for *Hallowed Secularism: A Guide for the Non-Believer*. I began to read it in November and posted twice then about the book. Chapter 14 of the book—*Religion Today*—is perhaps the most important part of the book for *Hallowed Secularism*. In this chapter, Taylor tries to describe where we are today. He sees a lot of searching for religious authenticity and he is sympathetic to it. A lot of people, especially young people, are looking for something—something quite religious in many cases. Some of these people are close to Christianity and some are looking elsewhere. Some are looking only within themselves, but many are open to transcendent reality. Taylor writes that we need a new concept to describe all this. (Page 521). Naturally, I think of that concept as "Hallowed Secularism". Where Taylor and I differ, I think, is that he does not see the advances in science as actually causing a falling away from biblical religion, specifically Christianity. I agree that there are many factors to these trends. But, science promises that two identical experiments will yield identical results. There is no room for a God who could alter such results. Such a God is ruled out in principle. This is different from deism, in which God created the universe and then chose to step back. This is a universe without such a God at all. I still think there is room here for "religion" as Taylor defines it—a transcendent reality connected to a transformation that goes beyond ordinary human flourishing—but we have a lot of work to do to understand such a reality without God.

Title: The Need for Religion

Date: 2008-01-06T01:54:00.000-05:00

1/6/2008--I have been at the Association of American Law Schools convention in New York City the last few days. On Saturday I attended two events that have a bearing on the relationship between religion and progressive political action. At the convention itself, Professor Julie Nice of the University of Denver College of Law argued the need to try to establish some form of a right in the poor for assistance from the larger society. Rights, she said, are the most potent rhetorical source legal power that we have. Professor Nice ended by asking about the potential sources of such a right. Professor Marie Failinger of Hamline University School of Law responded, in a talk of her own, that our faith traditions, specifically the religions of the book—Judaism, Christianity and Islam, provide precisely deep and nuanced conceptions of such a right that are normative for millions of our citizens. This religious source must be utilized by those seeking to aid to poor. And, indeed, living wage movements, for example, usually do contain a self-consciously religious element. I also attended a program entitled Christian Legal Thought, co-sponsored by the Lumen Christi Institute and The Law Professors' Christian Fellowship. Unlike the poverty law program, these groups are comprised in part of politically conservative people. I was struck by the earnest efforts at the meeting to bring Gospel principles to bear on social issues. The discussion of immigration reform, for example, contained none of the demonization of illegal immigrants that has often characterized discussion of this issue. Of course, even putting the matter that way is an insult to the members of these groups. Why should I imagine that they would engage in such bashing? My point is that other conservatives do and these earnest Christians do not. They seek instead both justice and compassion in social policy. Speaking as a progressive on most political issues, I find the hostility to religious participation in public life that some secularists manifest bizarre and self-defeating. As usual, when religion was invoked at the AALS convention, there was usually a tension in my secular friends. And, if religion was being invoked to defend what we call conservative political positions, the usual suspects were hauled out by secularists—this was an offense to pluralism and so forth. I am looking forward to the time when non-believers will see the value of religious belief—not just in the pragmatic sense I am invoking here, but also the real and underlying value. Believers are in touch, or seek to be, with transcendence. That is something secularists will one day seek to share, on secular terms.

Title: Opposition to Islam as Opposition to Religion

Date: 2008-01-07T15:35:00.000-05:00

1/7/2008--On Saturday, January 5, I attended a conference at which Michael W. McConnell, Federal Judge on the 10th Circuit Court of Appeals, suggested that appeals to Muslims to be "moderate" reflect a view of religion as inherently irrational and violent. Such a view is a criticism—a deep criticism—of all religion, not just of a radical and violent form of Islam. On Sunday, in the New York Times Book Review, Ayaan Hirsi Ali, the courageous woman who was subject to death threats in the Netherlands over her outspoken criticism of Islam, confirmed Judge McConnell's insight. Ali criticized "the enemies of reason within the West" who are enfeebling the struggle against radical Islam. Those enemies are, she said, "religion and the Romantic movement." The way to prevail over radical Islam is through Enlightenment reason and individualism. Perhaps it is unfair to criticize Hirsi Ali. She has apparently never seen healthy religion. But she is repeating a widespread secular charge—all religion is irrationally prone to violence. This is the message also of Mark Lilla, for example, in his book, *The Stillborn God*. The call to atheism, however, as a way to engage Muslims, is an absurd suggestion. It makes much more sense for religious believers to confront religious violence because they have credibility with any community of faith. Hirsi Ali's comments also remind us of the inherent conflict between capitalism and religion. It is no accident that she is a resident fellow at the American Enterprise Institute. Despite the description of the Republican Party alliance between market conservatives and religious conservatives as "fusion," Hirsi Ali reminds us that capitalism is premised on an individualism and a materialism that are alien to Judaism and Christianity, indeed to all religion. This is the inherent tension that Mike Huckabee is, perhaps unintentionally, laying bare.

Title: Why I Don't Support Senator Clinton for President

Date: 2008-01-10T09:58:00.000-05:00

1/10/2008--Since this blog is so infused with politics, I thought it was time to come clean on my opposition to Senator Hillary Clinton for President. The simple truth is, I don't like her and I am not sure what the reason is. I have been around ambitious career women all my life, so I am pretty sure that is not the reason. And I do think her negative ratings make her the weakest candidate the Democratic Party could nominate. But that is not a reason to dislike someone. Senator Clinton strikes me as someone who has to be right. In that way, she is like President Bush. That is why she could not simply admit her support for the war in Iraq was a mistake and move on. This is not a good quality in a President. I am also tired of the psychological issues of the Clinton family. Imagine the White House with Bill Clinton in it, lurking around the spotlight, with foreign leaders wondering how much influence he has. And imagine President Hillary Clinton tempted to do something she would not otherwise do, just to prove she is in control. No thank you to the whole tortured relationship. It may strike you as unfair to blame Senator Clinton for Bill. Shouldn't I be deciding on her alone? But my reaction is a response to her strategy. She should have banished Bill for the duration of the campaign. Instead, they have practically run as a team. But I don't want a team for President.

Title: Upon Finally Finishing Charles Taylor

Date: 2008-01-13T06:59:00.000-05:00

1/13/2008--"Much have I traveled in the realms of gold", and though I did not find Homer, I did find an amazing font of knowledge about the rise of secularism and the history of religion in Charles Taylor's book, *A Secular Age*. Unfortunately, though he and I see very similar trends in the world, both believe that "we all have some sense" of transcendent reality (768) and even agree, in a way as to the real need for the future, I find Taylor curiously unhelpful. I will try here to say why. The book is very good at situating exclusive humanism/materialism and showing how inadequate it can be as a total account of reality. The hard core scientific materialism crowd should read this book. Taylor also understands the massive unlearning of the language of the transcendent that is going on today among the young. And he foresees that in the coming generations, the cultural acceptance of an immanent account of the world will lead to the sense of living in a wasteland. This will move the young to seek the transcendent—though they will lack this vocabulary—at the boundary of the secular. He does not know, he says, where this will go. Taylor also acknowledges that what is needed is a new language that points beyond ordinary immanent reality without using outmoded or unfashionable religious language. Maybe this language will challenge the very nature/supernatural distinction. (732). Of course, I see in all this the call for Hallowed Secularism and I am frustrated that Taylor is content to describe and lament but doesn't see the need to provide much if any content. One reason for this is that he cannot do so and did not set out to do so in this book. But there is another reason. The problem of the young ensnared in materialism is not Taylor's problem. Despite his deep understanding of the secular world, he remains more or less comfortable in his Catholicism. What he is interested in, as his last chapter, called *Conversions*, shows, is a return to orthodox Christianity. There are already accounts of many modern secular seekers who ended up returning to the Christianity of their Western civilization. Taylor seems to feel, though he does not say this, that once the young begin to search, there is no reason they cannot return as these others did. If this sounds like a criticism of Taylor, I don't mean it to be. How could a grounded intelligent believer see the matter differently? After all, the only reason I see this differently is that I could not stay in my Judaism as he stayed in his Catholicism. But, since I did leave, I don't think the young, by which I mean the future, can return. Thus, something new is needed. Maybe my work will help move in that direction and maybe not. But something new is necessary. In the meantime, we can thank Charles Taylor for mapping our coordinates. Our understanding of our situation will now have to start with him.

Title: The Michigan Primary

Date: 2008-01-17T10:39:00.000-05:00

1/17/2008--Aside from the obvious fact that Mitt Romney got the win he needed, what does the Michigan Primary result tell us about the role of religion in American political life? Romney was helped greatly in Michigan by the fact that voters are more worried about the economy than they have been up till now. Romney would have done well in Michigan anyway, but the current concern about a recession reinforced the long-standing worry in that State about jobs and future economic growth. Perhaps Romney pandered to that feeling—I was sorry to see John McCain hurt because he told the truth about auto jobs lost forever—but Romney put himself into position to take advantage of these concerns. Mike Huckabee's relatively weak performance in Michigan suggests that when an issue like the economy surfaces, voters will tend to relegate faith issues to a lesser position. Something similar might be behind the willingness of some conservative voters to overlook Rudy Giuliani's checkered personal history and certain policy positions because they are concerned mostly about national security. This is not surprising. People worried about their jobs or their family's safety will vote to protect themselves almost no matter what. Supporting someone who shares your values may take a back-seat at that point. For someone like Huckabee this means either doing well in States where these concerns are not so pronounced—as in South Carolina, perhaps—and reassuring voters that there is more to his campaign than just the ties of faith. Huckabee's recent emphasis on his support for a constitutional marriage amendment is therefore probably a tactical mistake right now. Does all this show that religion in public life is a fragile and temporary phenomenon? No. It just shows that religion, for most voters, is not the sole matter at stake in an election. That is true of almost any political consideration.

Title: God

Date: 2008-01-20T12:39:00.000-05:00

1/20/2008--My colleague Robert Taylor is attempting to introduce me to the thinking of Martin Heidegger in Contributions to Philosophy, the thoughts that Heidegger more or less wrote to himself in the early 1930's and put in the drawer for a long while. This work is famously difficult and I am not claiming to understand it, but I have understood one matter: Heidegger is trying to bring us to a new beginning away from the influence of traditional metaphysics. A large part of the problem for people like me in regard to the designation, God, is the feeling that "God" understood as a being—as person-like for example—could not possibly be real. And the religions of the book—Christianity, Judaism and Islam—can feel as if God is a person. I know that this is not quite fair to those religions, in each of which there have been protests against understanding God that way, but that is the sense I always get from these monotheisms. In contrast, Heidegger engages what is most real in un-being like ways. Heidegger refers to Seyn, translated be-ing, as the ground for beings. I am still trying to understand what he means, but he clearly means that be-ing is not a being (as Heidegger elsewhere says). This seems to me at least a better starting point. There is clearly something at the heart of reality upon which everything is dependent. (We did not invent ourselves, nor did we invent the possibility that anything at all would come to be). And that something is plainly not like us. More than that it is hard to say. These thoughts explain my impatience with the theism-atheism debate. That debate centers around outmoded concepts that no longer speak well to our time. The debate does not bring us closer to a question worth asking—such as, what is the truth of be-ing? Surprisingly, unlike doctrine, the Bible is not that far from these thoughts. There is something very mysterious about God in the Bible. Plainly, God is described in anthropocentric terms in the Old Testament. But the rabbis knew and said that these ways of thinking were not faithful descriptions of God. Jesus, of course, is a being, but even in his case, the resurrection is very strange. His followers do not recognize him even when he is in front of them. It may turn out that philosophy rescues us from the misleading debate about the God of metaphysics.

Title: Martin Luther King, Jr.

Date: 2008-01-23T07:35:00.000-05:00

1/23/2008--On Martin Luther King day this week, the Pittsburgh Post-Gazette ran a story asking a number of people, some famous, what they thought Martin Luther King Jr., would be doing today. I thought I would give that question a try. People forget two things about Martin Luther King, Jr. First, he was always a surprise. Second, he was, foremost, a Christian martyr. In terms of surprise, King always went where people told him not to go. In the early sixties, people said just preach the Gospel. Don't do civil rights. Especially, don't break the law and don't get arrested. Then, after 1963, they said, just do civil rights. Don't oppose the Vietnam War. Don't speak out for social and economic justice. But of course King did both. He died in Memphis, supporting sanitation workers in their struggle for a better life. So, today, he would be surprising people. In terms of religion, King died for the Gospel even more than for his people. I mean I think he saw things that way. So, today, King would be on a religious forefront. It is easy—and cheap—to say that King would have opposed the Iraq War. He would have been more sympathetic to people forced to live under tyranny than is the left today. He would, I think, oppose our tendency to refuse to talk with our adversaries. He would want us to engage Iran, rather than threaten. On the religious front, King would certainly be drawn to engage the killings in Darfur and other forms of violence in the world. But, I think he would be opposed to our demonization of Islam. We can be sure of one thing. King would be making us uncomfortable. He always did.

Title: Darwin Day 2008

Date: 2008-01-26T12:15:00.000-05:00

1/26/2008--There are posters all over Duquesne University this week announcing upcoming "Darwin Day", an annual event celebrating the importance of evolutionary theory and attempting to show that biology and religion are not enemies. Since Duquesne is a Catholic University, this is a powerful symbol. Federal Judge John Jones III, who decided the Dover Pennsylvania intelligent design case in 2005 that removed a biology class qualifying statement that a religiously conservative school board had inserted in the curriculum, is the featured speaker. He will be welcomed as a hero no doubt. The statement was removed after it was shown that the school board lied about its intentions and motives and the voters changed the membership of the board. Peace now reigns in Dover and Darwin is taught. What could be better?

But Darwin Day will not ask the deeper questions—the ones that thoughtful Darwinians, like Philip Kitcher in his book *Living with Darwin*, are asking. You see, evolutionary theory actually is potentially corrosive of religious belief. And there is no reason for a school board not to worry about that. No reason, that is, except for the law's insistence that government not be allowed to care that children might be pushed toward atheism. Judge Jones was right that the board did not tell the truth about their motives. But it was an unjust legal regime associated with the secular Lemon test (*Lemon v. Kurtzman* (1971)) that made decent people into liars.

Darwin conflicts with religion in at least two ways. First, many people believe that the Bible is literally true. There is even now a large "Creation Museum" in Petersburg, KY, that purports to show a much younger earth and a tree of life contradicting a great deal of what biology thinks it knows about the history of life.

Conflict at this level between science and religion is irreconcilable, but that does not bother the authorities at Duquesne because the Catholic Church has come to terms with a non-literal Bible. But is it really the role of Biology class to show that fundamentalism is wrong? Why not tell the students that they can still believe the Bible? Not, of course by lying to them about science. But just by saying that science and some religions have different accounts of the history of life. Just saying enough that students won't have to resolve their religious futures in 11th grade.

The problem with such a mild statement is that the only reason to have it would be sympathy for religion. And that is what certain secularists cannot stand.

On a more fundamental level, the insistence that evolution is a random process really does conflict with our three monotheistic religions—Christianity, Judaism and Islam. The New Atheism argues precisely that. And I don't know why the Catholic Church is not worried about it. God could not have had a plan for humans if evolution might never have produced sentient life.

On this level, religious partisans have been trying to show that evolution "could not" have been random. That is the gist of intelligent design. This attack has been countered by scientists, for all I know successfully.

But science cannot prove that apparently random processes really are random. If I say that God has been pulling the strings all along, there is no way to disprove me. We are simply beyond the realm of science. Why shouldn't students be told that?

The problem here is not science or religion. The problem is American law. It is American law that says the motive to protect children from a premature leap into atheism is an improper motive. That is why decent people lie.

But, I am happy to say, American law is changing. The United States Supreme Court probably now rejects the very framework that Judge Jones applied in Dover. Judge Jones wasn't wrong—there isn't yet any other framework to apply. And certainly he was right to find dishonesty by the defendants.

But there is nothing to celebrate in the Dover case. That case represented the worst effects of the effort by a secular legal elite to move American culture away from traditional religion. That effort—the secular project—is at an end. Eventually, there will be statements in biology classes to limit the corrosion that Darwin can cause. And science will be restricted to its proper frame and will no longer be taking a side in a fight that is not its own.

Title: Randall Balmer on Fresh Air

Date: 2008-01-29T09:23:00.000-05:00

1/29/2008--I hope people had a chance to hear Randall Balmer, the author of *God in the White House*, Monday on Fresh Air on NPR. Balmer presented a pro-separation of church and state position from a left-wing evangelical perspective. You can listen to the broadcast on the Fresh Air website. Balmer was critical of the religious right and made several claims suggesting a degree of political opportunism, if not worse, in the movement. For example, he claimed that abortion had little or nothing to do with the rise of the religious right. Instead, he said, the political organization of evangelicals took place as a response to IRS challenges to the tax-exempt status of educational institutions that practiced racial discrimination, particularly Bob Jones University. This of course is a much less morally compelling account than would be an emerging pro-life position. Balmer said that even in the late 1970's, abortion was not a major issue for evangelicals and did not become such until the Presidential candidacy of Ronald Reagan in 1980. In regard to Reagan, Balmer pointed out that condemnation of divorce had been an important issue in the evangelical community, but as soon as the divorced-Reagan assumed the Presidency, such religious criticisms disappeared or were greatly reduced. This again suggested a degree of disingenuousness by at least the leaders of the religious right. This kind of opportunism supported Balmer's larger view that the entanglement of religion in politics corrupts both institutions, but especially religion, which loses its prophetic edge. Balmer is a strong proponent of the separation of church and state and has been an expert witness in cases involving the Ten Commandments on public property and evolution issues in the public schools. Balmer ended the broadcast with an impassioned defense of separation, saying that religion—faith—had flourished in America because of the separation of church and state and he plainly wants to see that continue. Balmer is certainly a reasoned and informed voice, but I cannot understand his interpretation of the Establishment Clause. The practices that he condemns, such as the use of the Ten Commandments and prayer in the public schools, were common during the period in which he says religion flourished and a separation was maintained. He certainly knows that prior to WWII, public expression of religion, particularly Protestant religion, was quite ordinary. So, if history is to be our guide, and I'm not sure it should be, there would not be the kind of separation of church and state that he champions.

Title: Membership in a Synagogue

Date: 2008-02-01T08:46:00.000-05:00

2/1/2008--This week I renewed a domain name I have had for a number of years: Newamericanjudaism.com. (I have to apologize for this to Rabbi Arthur Blecher, whose new book, *The New American Judaism*, has nothing to do with my work. But I had the domain name long before his book came out). I wrote a book several years ago, entitled, *New American Judaism*, but the book never found a publisher. Renewing this name reminds me of the journey I have made from more or less a regular Jewish believer, to a radical Jewish believer, to a non-Jewish secularist with close ties to monotheistic religion. I have finally become comfortable telling people that I am not Jewish but a secularist. Of course, my thinking and orientation have not changed that dramatically, only my terminology. All of this raises the question of why I still belong to a synagogue. I am a member of a reconstructionist synagogue in Pittsburgh, Dor Hadash, which is a wonderful place, and where I raised my children, and which helped me come to my voice in religious matters. I once gave a class there on *The New Testament for Jews* and publicly introduced my book, *American Religious Democracy*, there for its first public discussion. I have a great deal of affection for the people of Dor Hadash and am happy to continue to pay dues to support its admirable blend of Jewish tradition, open inquiry and progressive political action. Nevertheless, if maintaining ties to Dor Hadash were just a matter of nostalgia, I would resign from membership and continue to send dues as a contribution. And I yet may do just that. The problem is a practical issue of ritual, public prayer and community. As I point out in the book, *Hallowed Secularism*, the new secularist has no outlet yet in these directions. I need the renewal and communion of public prayer, especially the dramatic intensity of the High Holy Days. This need is not personal in the sense that it could be satisfied by something I could do on my own. Yet, it hardly seems to make sense to go to Jewish services if I have just resigned membership in the synagogue. (Not that anyone at Dor Hadash would object). This is the large question confronting *Hallowed Secularism* on a number of levels. How do we make the transition from a basically religious community, in which secularists act as parasites on the religious life of organized religion, to a secular community practicing a mindful and deepened secularism? I don't have the answer to this yet.

Title: The Demonization of Islam

Date: 2008-02-04T16:42:00.001-05:00

2/4/2008--A very disturbing, and extremely well-done, story appeared in the Pittsburgh Post-Gazette on Sunday. The story illustrates the self-defeating way the American government treats Muslims, even American citizens, in the post 9-11 age. The story, written by Sally Kalson, describes how Dr. Moniem El-Ganayni, a naturalized American citizen born in Egypt, was stripped of his security clearance and barred from continuing to work at Bechtel Bettis, Inc., where he had worked as a nuclear physicist, without any complaint against him, for 18 years. After Dr. El-Ganayni was removed as chaplain in a Pennsylvania State Prison, he was questioned by FBI agents about a book he distributed to inmates at the Prison and about speeches he made in local mosques and prayers that he led. The actions of the FBI in the story ranged from the bizarre—questioning whether a book about ant behavior was a hidden code for suicide bombing (despite the fact that the offending passage was lifted from biologist Edward O. Wilson and despite the fact that no one heard Dr. El-Ganayni ever utter support for violence)—to the outrageous. The FBI asked for explanations of the meaning of passages from the Qur'an, as if Islam itself were a terrorist organization and as if the Bible did not contain passages condoning genocide. Reading the story, it was obvious that the FBI did not really care about these other matters. What got Dr. El-Ganayni in trouble was his opposition to the FBI effort to recruit informants from within the American Muslim community. He did oppose this effort, stating specifically in the story that "it's not good for us to report on each other... ." "All Americans should understand the resistance of a community to this kind of government spying. As I wrote on this blog in September, "I would feel the same way if asked by the FBI to report on even genuinely illegal activity in my synagogue." I know Dr. El-Ganayni personally and no doubt that colors my certainty that he is both loyal to America and a peace-loving man. But anyone reading the article is likely to suspect that there is nothing to the allegations against him. What we are seeing in the treatment of Dr. El-Ganayni, as well as in many other instances, is the demonization of Islam. This is unjust, but it is also short-sighted. America cannot win the war on terrorism without convincing the millions of peaceful Muslims in the world that America does not wish to wage war on Islam, but only to protect itself against violence by a relative handful of heretical Muslims. Every story like that about Dr. El-Ganayni undermines any such protestation. And religious people in this country should remember that they always come for the "others" first, before they come for you.

Title: The Secular American Young

Date: 2008-02-07T15:56:00.000-05:00

2/7/2008--The extent to which the young in America shun organized religion for a secular orientation was brought home in a 2/4/2008 op-ed in USA Today by Professor Stephen Prothero, author of *Religious Literacy: What Every American Needs to Know—and Doesn't* (2007). Professor Prothero teaches an Introduction to Religion course to undergraduates at Boston University. For the past two years he has asked the students to "create their own religions." The results are, naturally, pretty funny and, in part, intended to be. But what struck Professor Prothero "is how similar they are." These religions do not involve dogma. They are nonjudgmental. They make few demands, either intellectually or morally. They are also secular: "They are allergic to divinity and even heaven." These religions, writes Professor Prothero, are similar to the religion offered by Joshua Boden of the music group Angelic Bombs in an upcoming documentary: This life is the one that counts; this IS your eternal reward. Another student in the story calls this "organized atheism" but I don't think that is the case. These students are the "spiritual but not religious" generation" as Professor Prothero says and others have also suggested. But they are not atheists. Actually they don't know enough to be atheists. Atheism is more than a denial of a God-being outside time and space. Atheism, despite Christopher Hitchens, is more than antipathy to some of the commitments and actions of organized religion. To be an atheist means to have thought through the meaning of life and the shape of history. Materialism and humanism are not all that attractive when you get to know them. Nor are they really reflective of what most of us experience in our lives. We are meaning-hungry beings and the fundamental religious question is whether that thirst for meaning is in some sense real—that is, reflective of the way things are—or is just a thirst for a mirage in a desert.

Title: Darwin Day in Retrospect

Date: 2008-02-09T18:24:00.000-05:00

2/9/2008--Last night, Judge John Jones III and Law Professor Edward Larson of Pepperdine spoke at Duquesne University's Darwin Day program. They were both excellent. But, it still seems to me that some proponents of teaching evolutionary theory in high school—and, of course, I am a proponent of that as well—lack respect and empathy for the concerns that drive opponents of Darwin. Especially the concern that parents have about the religious lives of their children. Evolution suggests that life began and unfolded naturally. And unpredictably, although there is some doubt in the literature about the ultimately random quality of natural selection. In any event, there is no obvious role for God in the growth and development of life. Since many 18-year-olds are entertaining doubts about what their parents and church taught them about God anyway, this aspect of high school biology class might well add to their doubts. And that is of grave concern to many parents. In this context, why do proponents of evolution oppose any gesture to reassure concerned parents? Why not give students a disclaimer to the effect that God and Darwin are not necessarily inconsistent? In not even considering such an action, proponents, like many present last night, are acting like partisans, afraid to give an inch for fear of appearing weak. American constitutional law is also to blame, because there is language in the caselaw suggesting that public schools should not be concerned about the religious lives of students. So, even though biology class may be creating a theological problem, the school board is not supposed to think about that. This incoherent demand may explain, at least in part, why public officials sometimes seem less than candid about these issues. We need a fundamental change in how we approach all this. But, last night, I heard mostly self-satisfaction.

Title: Religious Talk is not Enough to Close the God Gap

Date: 2008-02-11T12:14:00.000-05:00

2/11/2008--In the Sunday, February 10, New York Times book review, Notre Dame History Professor R. Scott Appleby reviewed two books that applaud the efforts of the Democratic Party and left-wing religious people to close the "God gap" in American politics: Amy Sullivan's *How and Why Democrats Are Closing the God Gap* and E. J. Dionne Jr.'s *Reclaiming Faith and Politics After the Religious Right*. I have not read either book, which by now should teach me not to say anything. In addition, I described and predicted some of the same phenomena that these authors are discussing, in my 2007 book, *American Religious Democracy*. So I should have no complaint. Nevertheless, references to God and openness to religious belief in the public square are not consistent with the strict separation of church and state that many liberals still insist on. As far as I can tell, neither Sullivan and Dionne, nor the politicians and religious people they describe, have dealt with that fundamental problem. In fact, rather strangely, while Appleby quotes Senator Barack Obama criticizing secularists for asking that religious language be banned from the public square, as late as last year, the Senator was insisting that "democracy demands that the religiously motivated translate their concerns" into secular language when debating public issues. If Senator Obama has changed his mind about that, I am glad. But I never heard him address the matter. Making a genuine pitch for religious votes requires more than donning a yarmulke or uttering the word "God". It means accepting a real and enduring place for religion in public life. You cannot have that and, at the same time, laud Mark Lilla's book *The Stillborn God*, which "praises America and Western Europe for simultaneously separating religion from politics, creating space for religion, and staving off sectarian violence and theocracy." There is a great deal of conceptual confusion about religion and politics on the left.

Title: More on E.J. Dionne Jr.

Date: 2008-02-12T08:51:00.000-05:00

2/12/2008--Well, now I have an essay by E.J. Dionne, Jr., recently published in *Commonweal* magazine (2/15/2008). The essay is described as "adapted" from his new book, "Souled Out". Dionne does understand that we are in a third phase of the relationship of church and state in which religion is more in the mainstream of the public square—mainstreamed, he calls it—than during the period that banned prayer in the public schools. He also says that in this third phase, politics will not attempt to totally bracket religion and morality. Whether or not religion and politics should mix, he writes, they inescapably do mix. But Dionne has not moved at all from the fundamental 1960's commitment of government religious neutrality. All that has changed is that students in public school, for example, now have the right to their own individual religious expression. This is precisely the wrong way to go. It used to be at a high school graduation that the school board would ask a member of the clergy for a nice, bland non-sectarian public prayer. After that, religion would be politely excised from the rest of the ceremony. Now, after *Lee v. Weisman* (1992) banned such invitational prayers, and with the new emphasis on individual student expression that Dionne likes so much, religious minority believers and atheists have to suffer through 18-year-olds praising Jesus for their high school diplomas. As I wrote in *American Religious Democracy*, "The Court has not eliminated religion in public high schools. It has only eliminated adult leadership." The underlying problem in the relation of church and state is the assumption that there are secularists/atheists on the one hand and religious believers on the other. While this is true in a sense, the real question is, what does a secularist/atheist believe that a religious believer does not? The word God may mask basic similarities concerning the reality of the good in our lives and in history. One nation under God may turn out to include more people than we now assume. That would be a real third phase.

Title: New Thinking about Religion

Date: 2008-02-14T10:06:00.002-05:00

2/14/2008--There are many conferences about religion and public life these days. I just received one from Seattle University School of Law for this coming March. The title is Pluralism, Religion and the Law. The conference looks very good. It seems to be asking questions about the relationship of religion to liberal political theory, normative human rights and the practice of law. From what perspective, for example, can one criticize the cultural practices of others—and their religious practices—if we live in a pluralistic world with many perspectives? How can religion ground morality, or even just contribute to it, if there are many religions? And how does all this relate to the practice of law? This is important work. But I wonder if it is really the key to public life in the West. That life is increasingly secular. When I am at conferences like these, the speakers seem basically secular, even when they are “experts” in religion (whatever that might mean). The pluralism of the future will not just be many religions and also many secularists, but rather many secularisms. And the real question, that is the question for living, is how those secularisms will manifest themselves in realms we now consider “religious”. Is there room in our pluralism for a religious secularism, or as I call it, hallowed secularism? And if so, how will that challenge the easygoing atheist assumptions of most non-religious people, including law professors? These topics are difficult for conferences, because there are no experts in living a religiously secular life. We must become our own experts.

Title: How Secularists Knocked Down the Wall of Separation Between Church and State

Date: 2008-02-16T10:33:00.002-05:00

2/16/2008--I just finished reading University of San Diego Law Professor Steven Smith's Research Paper, "How Secularists Helped Knock Down the Wall of Separation Between Church and State". Professor Smith argues that the Wall was not undermined just by religious conservatives, but more fundamentally by secularists. Separation of church and state depended in its classic formulation on the understanding of Church and State as dealing with two separate realms—this world and the realm of the spirit—or, in Augustinian terms, the City of God and the City of Man. Both realms made demands on human beings, but the demands were different. Thus, the separation was "jurisdictional". In this reading, it was the triumph of a new kind of understanding of the secular—one that denied reality to anything not material—that eliminated religion as a separate realm with demands of its own. The profane became all that mattered. Religion thus became not separate, but just another private grouping, like the Elks, which must be treated as well as any other group. The issue of church and state is no longer separation but justice—how to treat believers in a pluralist state. Smith's article raises a question for this blog: in Hallowed Secularism, what is the proper relation of church and state? Religion cannot be a separate realm, because public morality affects everything the State does. Hallowed Secularism thus shares what might be called the Old Testament view of the world. There is no separate religious jurisdiction. On the other hand, the relationship of humans to transcendence is not just one more interest group. It is a relationship that government should be able to promote and, at the same time, is a source of potential social critique that should be specially protected from government interference. Hallowed Secularism needs a vibrant religious sector from which to borrow its ideas about the good and the true.

2/18/2008--Again commenting on a book I have not read. The most recent Yale Law Report contains a two column description of former dean, now Yale Law Professor, Anthony Kronman's new book on education and the meaning of life. Kronman calls for universities to be the spiritual leaders they used to be, and that America needs for them to be again, by abandoning the research ideal to return to the great questions the Humanities used to ask, such as the meaning of life. Higher education should not just be for knowledge, but also for exploration of life's meaning and mystery. Life's meaning used to be an academic subject for study and could be again. I don't know how the book treats religion, but the blurbs in Amazon and the short story in Yale Law Reports suggest that Kronman wants a return to secular humanism as a source of study (the phrase "secular humanism" is in the story as Kronman's goal for recovery). Here are the authors he cites: Kierkegaard, Sartre and Gabriel Marcel (as sources for a 1965 course he took entitled, Existentialism); Plato, Descartes and other "great works of literary and philosophical imagination that we have inherited from the past." It is beyond dispute that much of American education has abandoned the question of the meaning of life, and similar pursuits, and that the culture has suffered for it. But the study of the meaning of life could not possibly be exclusively secular. Much of what the West learned about the meaning of life comes from the Christian tradition (and to some extent Judaism). For all I know, Kronman agrees with that. But it is worth putting forward expressly. What the New Atheism does not understand is that when you banish religion, or try to, you are banishing the depth of life as well. Undoubtedly, it is possible to live a meaningful life without traditional religion. But it is not possible to do so while holding a dismissive attitude toward religion. The reason is that living well requires answers to questions religion asks extremely well, such as the meaning of life. If Our Religions are mere superstition, as the New Atheism suggests, their questions must be meaningless. The problem with American education is not too much emphasis on research. That is a symptom of something more fundamental. The problem is that educators feel they must avoid deep questions out of a commitment to avoid traditional religion. Research just fills the resulting void. Much as shopping, entertainment and advertising fill the rest of American life. The antidote, if there is one, is a return to religion as a starting point. We secularists can't be religious in the traditional sense, but we can't be fully human without engaging the religious questions.

Title: Theology of Public Life versus Public Theology

Date: 2008-02-20T12:02:00.002-05:00

2/20/2008--Here is a blog entry about another book I have not read. (There is a new book about how to discuss books that one has not read--Pierre Bayard, *How to Talk About Books You Haven't Read*—but I haven't read it). The recent Report of the Boisi Center for Religion and American Public Life at Boston College contains a story about a panel discussion of Charles Mathewes' new book, *A Theology of Public Life*. Professor Mathewes, who spoke on the panel, distinguishes public theology, which asks what God has to do with politics, from theology of public life, which asks what politics has to do with God. The latter is the only proper perspective for a Christian because it puts the demands of God first. The former risks accommodation with the evils of the day. Only God properly orients us to himself and to our neighbor. Ronald Thieman of Harvard Divinity School, another member of the panel, reportedly made the obvious observation that Mathewes' book is for Christians and that his perspective fails to address the rest of us, whether we are secular, alternatively religious, or just imperfectly Christian. Public theology in this sense is more helpfully inclusive than is theology of public life. This is a continuing problem that affects every aspect of Hallowed Secularism. How can we learn from a religion when we are without its faith? So let me here set forth a faith claim of my own. Insofar as Our Religions are great—as opposed to cults, let's say—they touch on a part of the truth of human life that is available to all. But you cannot get to that universal without going directly through the particular. Or, to put it another way, only old fashioned Christian theology can teach the rest of us what is universal about the Christian message. So, Mathewes is more right than Thieman. Even if the goal of the believer is to speak to all, and not just to fellow believers, that speaking must remain within the language of the religious community. The rest of us must figure out how to engage and appropriate what we can of that wisdom. The task of translation is for the secularist, not the believer.

2/22/2008--Amy Sullivan's new book--The Party Faithful--is getting her coverage all over the place. While I have not read the book, I have looked at her excerpts in Time and on beliefnet. Sullivan is a senior editor at Time magazine and an evangelical. She traces the history of the Democratic Party's increasing hostility to religious people and its devastating political consequences, particularly in the Presidential election of 2004. Some of this is ground I also covered in American Religious Democracy. The problem with Sullivan's argument is one she should recognize, because she adverts to it at various points. Clinton appealed to religious people in the 1990's because of his own comfort level with religion. But his personal appeal did not change the fundamental dynamics of the Democratic Party not welcoming religious people. Sullivan suggests that the Party has finally learned the lesson that you don't win elections in American by throwing away the white Christian vote. Well, yes and no. The Democratic Party has certainly learned that you cannot win without religious voters. But, by Sullivan's own argument, if this is just political calculation, religious voters will see through it. The three leading Democratic candidates for President—Obama, Clinton and Edwards—were and are not just using religion. They themselves are at home in a religious context. But what about the wall of separation between Church and State? The Party is still committed to that. And part of that commitment is based on a negative view of religion in the public square. In Governor Romney's speech about religion, he made an important point. Religion is not just private. The attitude of many secularists in the Democratic Party is that we are stuck with religion in the public square for purely political reasons, for now. As soon as we can, we will put religion back into the closet. A lasting political change will come when secularists come to see themselves as in a sense religious. Then there will not any longer be hostility to religion per se.

Title: Ending the Evolution Wars

Date: 2008-02-24T09:03:00.002-05:00

2/24/2008--I have suggested reading a statement to high school biology classes that would make the point that evolution need not be regarded as proving materialism and disproving religion, despite the opposite insistence of the New Atheists (and, ironically, that of religious fundamentalists, who also argue this absolute inconsistency in order to defeat Darwinism).

My statement, suggested below on August 1, 2007, is not as good as the following from the noted British paleontologist Simon Conway-Morris' book, *Life's Solution: Inevitable Humans in a Lonely Universe* (Cambridge 2003), on page 2. This would be a great statement to read in biology class.

"Yet despite the reality that, as it happens, we humans evolved from apes rather than, say lizards, let alone tulips, the interpretations surrounding the brute fact of evolution remain contentious, controversial, fractious, and acrimonious. Why should this be so? The heart of the problem, I believe, is to explain how it might be that we, as product of evolution, possess an overwhelming sense of purpose and moral identity yet arose by processes that were seemingly without meaning. If, however, we can begin to demonstrate that organic evolution contains deeper structures and potentialities, if not inevitabilities, then perhaps we can begin to move away from the dreary materialism of much current thinking with its agenda of a world now open to limitless manipulation. Nor need this counter-attack be anti-scientific: far from it. First, evolution may simply be a fact, yet it is in need of continuous interpretation. The study of evolution surely retains its fascination, not because it offers a universal explanation, even though this may appeal to fundamentalists (of all persuasions), but because evolution is both riven with ambiguities and, paradoxically, is also rich in implications. In my opinion the sure sign of the right road is a limitless prospect of deeper knowledge: what was once baffling is now clear, what seemed absurdly important is now simply childish, yet still the journey is unfinished."

Conway Morris is making several points in this dense paragraph. For one thing, evolution is a fact but a fact in need of interpretation. It does not interpret itself. Second, humans do possess an overwhelming sense of purpose and moral identity. This is as much a fact as any other fact and cannot simply be dismissed as an illusion, as the New Atheists would like to do. Third, there is a depth to evolution itself, since it has led to beings of meaning such as ourselves. The universe, it would appear, selects for meaning. Fourth, materialist atheism is not a value neutral appeal to the facts, but a claim with an agenda of its own—to treat the world and all that is in it as things to be used, including ourselves, without dignity of its own.

Finally, and only a scientist of Conway Morris' stature can say this with authority, these thoughts are not anti-scientific. Not even a little.

I should add, to be fair, that I don't think much of these conclusions require agreement with Conway Morris about the inevitability of something like human intelligence and morality. It happened and the onus is on materialism to establish that we are just one of those things. But the word inevitable bothers me.

Title: The PEW Forum U.S. Religious Landscape Survey

Date: 2008-02-26T16:44:00.002-05:00

2/26/2008--Many major media are reporting today the PEW Forum Report on the shifting American religious landscape. The Report deals with the difference between childhood religious affiliation and that of adulthood in order to see how Americans change their religious affiliations over their lifetime. The main conclusion of the Report is that Americans do change their religious affiliations. This suggests that Americans take religion seriously and, perhaps, are looking for something.

For purposes of Hallowed Secularism, the Report contains two striking findings. One is the growth over time of the "Unaffiliated" group to its current impressive size and likely future increase. In the Report, this group includes atheists, agnostics, secular unaffiliateds and religious unaffiliateds. The terms are slippery. The Report did not track the growth of this group nationally over time—it only asked about change in an individual's own life from childhood to adulthood—but the Report did include General Social Survey data from 1972-2006 that asked "What is your religious preference? Is it Protestant, Catholic, Jewish, some other religion, or no religion?" That answer showed the "no religion" group growing from around 5% of the population in 1972 to around 16% in 2006. In the PEW Report itself, the current unaffiliated number is 16% and among persons 18-29, the number is 25%. This means there are a lot of Americans unaffiliated with organized religion and in the future there will be even more.

The second important finding concerns the relationship of this unaffiliated group to religion. The percentage of atheists is small and not growing very much. Atheists are 2% of Americans and even among younger people, only 3%. Some of the unaffiliateds describe themselves as agnostic. But by far the most—3/4's-- of the unaffiliated call themselves "secular" or "religious" unaffiliated. As the New York Times story put it, "The rise of the unaffiliated...does not mean that Americans are becoming less religious." In fact, given the unwillingness of the vast majority of unaffiliated people to call themselves atheists or agnostics, it would seem that these are people looking for religion—just not looking in the usual places.

What is this other place they are looking? The unaffiliated are not looking to Buddhism, indigenous tradition, or New Age religion. Those were all other choices they could have selected in the survey, but did not.

I think I know what the unaffiliated are looking for. I think that many of them are like me. We are looking for religion that is pretty traditional in its orientation. But this would have to be religion that does not demand that we put either our minds or our ethics on hold. I think a lot of the unaffiliated would be willing to look again at the Biblical tradition, as long as it includes respect for science and genuine acceptance of all kinds of people. No fairy tales and no authoritarianism. But plenty of the poetry and mystery of faith.

Hallowed Secularism says we can have all of that. Hallowed Secularism may be what some of the unaffiliated are looking for.

Title: Abortion and Gay Marriage

Date: 2008-02-28T09:29:00.002-05:00

2/28/2008--This morning I heard an NPR interview of Richard Land, president of the Southern Baptist Convention's Ethics & Religious Liberty Commission, which was presented as part of NPR's "Conversations with Conservatives" project. You can read and listen to the interview at <http://www.npr.org/templates/story/story.php?storyId=78666288>. (By the way, this interview is an example of why I admire NPR so much. Even if you think some of the questions were loaded, Land no doubt rarely has this kind of uninterrupted air time to make his case and explain his points. I'm sure he would agree he was fairly and intelligently treated.)

I like Land, but I should add at the start that he favorably reviewed my book, *American Religious Democracy*, in the *Journal of Law and Religion*. So, I owe him.

The matter that Land wanted to address in the interview was calls for Evangelical Christians to "broaden" their political concerns beyond abortion and gay rights to include matters such as social justice, the environment, peace and so forth. Land made it clear that he did not oppose these other concerns, but he did not feel they should be pursued at the expense of opposition to abortion and gay marriage, which he plainly regards as core concerns. Not stated, but implied, is that supporting a Democrat for President would be pursuing these other matters at the expense of abortion and gay marriage.

Land's position in the interview illustrates the ability of politics to corrupt religion, in two senses. First, how can the issues of abortion and gay marriage possibly be linked, except in the sense that both are political issues? If one believes that abortion is always evil because abortion always takes an innocent human life, how can that be compared with the establishment of a marriage context for gay people? How can killing someone and marrying someone be compared in terms of moral seriousness? You cannot respond that both involve commandments from God because then all commandments are equal and abortion cannot be set above feeding the hungry, which Land denies. The Bible, after all, itself sets forth other models for marriage than one man and one woman. In addition, if gay people cannot marry the other gender because of the way they are made, their desire to love and to marry in the only way they can seems to me to be a glorification of heterosexual marriage rather than a denigration of it. Anyway, gay marriage is certainly debatable from Land's perspective in a way that abortion is not.

This error in linkage raises a more fundamental mistake. The Bible, especially the Gospels, generally do not speak in terms of issues. There is some legal material in the Old Testament and divorce and the Sabbath get some specific treatment in the New, but on the whole, the Bible is about something else. As Jesus says, the core commandments are to love God and one's neighbor. Issues, and ethics generally, fall out of that commitment as implications, not as commandments per se.

I don't mean that Land is wrong about abortion and gay marriage, though I believe he is wrong about gay marriage, but he is wrong in putting things this way. He sounds more like a Pharisee than a Christian. Politics will do that to you.

I also urge Richard Land to drop the reference to Martin Luther King. In the interview, Land likened the criticism that Evangelical Christians are too narrowly focused on abortion and gay marriage to a hypothetical criticism that Martin Luther King was too narrowly focused on racial justice and reconciliation. The problem with this comment is that, toward the end of his life, Martin Luther King evidently came to precisely that conclusion. This is why, before he was killed, he broadened his message to include matters of war and peace and economic justice.

2/29/2008--I use the word meaning because I am yet afraid of the real word, which is, the Holy. The word meaning will do for the moment. If we think of the State of embodying the Holy, we have the makings of theocracy and tyrannies of all kinds. But if we think of the State as subject to the Holy, we have a different kind of politics. The words "under God" in the Pledge of Allegiance certainly were intended and are intended to represent different claims on different levels. On one level, they are weapons in the culture wars. We are under God and therefore cannot have abortion and gay marriage. On another level, they represent the claim of the Judeo-Christian tradition. This is the level at which the 9th Circuit found the Pledge unconstitutional. On yet another level, they represented in the 1950's a claim on behalf of the liberal-democratic-capitalist West against Communism. But within these words "under God" is also the claim that the State, the nation, the people are "under" something. We are not self-sufficient. The world is not merely our resource. Other beings do not exist for us. That claim, this faith, is certainly not uncontroversial. In fact, in the 1950's, when the words "under God" were added, the claim was ceasing to represent what America really believed about reality. Even its religion was becoming mere human production. So, inserting these words at that time might have been a looking backward to something that we used to believe. My proposal for constitutional law is that it has no proper place in this struggle. That struggle can be named in different ways. It is between materialism and meaningfulness. It is between atheism and faith. It is between the powerful and the powerless. It is between mechanism and dignity. I would like to say it is between capitalism and justice. No matter how the struggle plays out, there is no place for a court to step in. There is no place for a law professor to have an opinion out of dreary conventional (to quote Conway Morris) categories. Noah Feldman argued that the Establishment Clause should be understood as involving money. There is a sense in which this is so. But more to the point, the Establishment Clause should be understood as separating institutions—the institution of the State from those of the churches. In the realm of the holy itself, the Establishment Clause is irrelevant. FDR was appealing to the realm of the Holy in his prayer for our armies at Normandy on nationwide radio in 1944. He was asserting that the Holy has power in history. He was asserting that the Nazis were the enemies of the Holy. Law has nothing to do with such matters. Law only profanes them.

Title: Anne Lamott

Date: 2008-03-04T08:19:00.002-05:00

3/4/2008--Anne Lamott came to Pittsburgh last weekend. Lamott is the author of many spiritual books and writes autobiographically. She is very popular. Although Lamott describes herself as a left-wing, born again Christian, she is a better example of a new, spiritual longing in America that is outside most organized religion. You can see this longing in the book, *The Life of Meaning*, which follows the PBS project *Religion and Ethics Newsweekly*. In the book, the phrase is repeated, I'm spiritual, not religious. Lamott is sort of like that. I find myself oddly uncomfortable with this trend, which is surprising since some would say my work is a part of it. But I think it misses the God of History and also misses some of the most important aspects of the biblical witness. For example, Lamott wrote in *Salon* back in 2005 that she had a "core belief that all people are good, and precious to God, and that everyone deserves to be cared for." But are all people good? The evidence is sort of to the contrary. And God loves people, if I understand the Christian message, despite the fact that people do not deserve God's love. This may seem a small point, but it is the difference between religion and pablum. Like a good liberal, Lamott is committed to the separation of Church and State, attributing this view to Jesus (Give to Caesar...). I wonder if this makes sense. She says God does not take sides. But the God I see in the Bible is very much one who takes sides. And a God who takes sides is a part of political life, not separated from it.

Title: Enlightened Tolerance of Post-Enlightenment

Date: 2008-03-06T16:40:00.002-05:00

3/6/2008--In the New York Review of Books, 3/6/2008 edition, J.M. Coetzee, 2003 Nobel Prize winner for literature, reviews *Lost Paradise* by Cees Nooteboom. The novel deals with angels or their absence in the world. The book has something to do with the Angel Project in Perth Australia in 2000, in which members of the public were given guided tours and told to look out for angels and indeed some angel actors were provided. In response, some people apparently had angelic visions. This leads Coetzee in the review to consider how even to frame questions today about reality. This is what Coetzee says: "Do angels exist? Does God exist? It is not only in the universe of postmodern fiction that such questions have a quaint, old-fashioned—that is to say, pre-postmodern and perhaps even pre-modern—air. In tolerant, post-Enlightenment societies we are free to make up answers to them as we choose, without risk of punishment. Indeed, in its advanced form the principle of enlightened tolerance simply refuses to take such questions seriously. If God works for you then he must be true (that is to say, true-for-you); and ditto for angels and the rest of the heavenly hierarchy." The problem, though, with not taking such questions seriously, adds Coetzee, is "the plight of the self haunted by a need for ultimate truths in a world from which the gods have withdrawn". The last comment sounds a little like the philosopher Martin Heidegger. I think Coetzee has his finger on the problem but not on its name. The problem is not that we need ultimate truth and there is none. The problem is that we need decisions to questions that we have given up asking. It would be perfectly satisfactory to hold that there is no God, nor are there angels. But it is not satisfactory to suggest that God and angels are matters of opinion. It is not satisfactory both because that way a civilization can end up living in a dream world—like the movie, *The Matrix*—and because history is not a matter of opinion. Whether there is a God or not, there are still slaves and we need to know if reality decrees their freedom.

Title: Progressive Religion and Hallowed Secularism

Date: 2008-03-07T10:48:00.004-05:00

3/7/2008--I received a criticism of Hallowed Secularism this week, in the name of, and on behalf of, "progressive religion". The criticism was twofold. First, my description of organized religion is said to be outdated. Progressive religion, which is to say liberal Jews and Christians in this context, have gone beyond the supernatural—God as a being beyond time and space, miracles, after-life and so forth. Process theology has already done that.

Second, Hallowed Secularism is cognitive—it is ideas about God and about the rest of theology. But progressives regard this sort of approach to religion as trivial. Religion is better expressed through art and ritual.

I have mixed feelings about this critique. On the one hand, I don't wish to attack progressive religion in any way. While I don't think progressive religion of this sort is tenable, I would be the first to benefit if it were, because then I could remain in Judaism. Plus, progressive Christians and Jews are my natural political allies on many fronts.

Nevertheless, let me, just this once, respond. There are two kinds of "progressive religion" in our cultural terms. One type is theologically conservative but politically liberal. In this category you can put people like Jim Wallis, Stanley Hauerwas, John Milbank and Pope Benedict. On some cultural issues, such as abortion and gay marriage, such persons may not be progressive at all. But on core economic issues, international affairs, militarism and the environment, such persons are likely to be more radical—because their thinking is grounded in the Kingdom of God—than any merely political alternative can be.

The other kind of progressive religion is both theologically and politically liberal. Obviously, I am painting with a very broad brush, since new theological thinking may not fit into these categories. But the critic had in mind liberal theology of a certain kind—skeptical of any supernatural concepts. For that is true of Hallowed Secularism as well and the point the critic was making was that Hallowed Secularism is not breaking any new ground.

This latter kind of progressive Christian and Jewish religion seems to me to have shown itself as insubstantial. It has few followers. It does not work as Christian thought because the empty tomb cannot be regarded as mere metaphor. That Christian truth is meant to be historical, even if mysterious. Jesus really must have arisen from the dead. Discovering Jesus' remains would be a Christian catastrophe.

Nor has this kind of religion worked in Judaism. Rabbi Mordecai Kaplan's formulation--God is the power that makes the good possible—is the sort of naturalism that the critic has in mind. But, as anyone familiar with Reconstructionist Judaism can attest, Reconstructionist Judaism has failed to incorporate such non-theistic understanding into prayer and liturgy. The language of the Old Testament undermines the Kaplan approach. In the Old Testament, God speaks and wills. God is not a force or structure.

To the critic, none of this is that important, since religion is not about theological ideas. Part of the point of progressive religion is to resist the Enlightenment emphasis on reason. But this non-cognitive approach has led in progressive Christian and Jewish practice to outlandish and nostalgic gestures. In Jewish synagogues, people now cover their heads with their talitot (prayer shawls) during the Sh'ma and people are routinely named in prayers for healing that were rarely done before. Jewish renewal ritual forms, for example, are boring. In progressive churches, prayers are longer and more people are remembered in prayers, than ever before. I find all this inflated and over-emotional.

And it is over-emotional for a reason--because it lacks the rigor of thinking. The great critic of Enlightenment narrow intellectuality was the philosopher Martin Heidegger. But Heidegger was careful to say, in the "Letter on Humanism," that he was not renouncing "the rigor of thinking" and putting in its place "the arbitrariness of drives and feelings", thus proclaiming irrationalism. But the sort of progressive religion the critic was raising risks doing exactly that.

Certainly religion is more than dogma and more than ideas, especially more than ideological commitments. But it does not do to say of God, "whatever we mean by that". It is not progressive in any sense to give up the fundamental question, what is reality and what, if anything, is behind it? Yes, Hallowed Secularism takes that question with utmost seriousness. Hallowed Secularism is not content to substitute for that thinking, any form of art and liturgy.

Title: The End of an Illusion

Date: 2008-03-09T08:33:00.002-04:00

3/9/2008--In the opening scenes of the movie Harry Potter and the Goblet of Fire, Harry looks out on the lush insides of a tent seemingly small from the outside, and says, "I love magic." Harry says this even though he has seen the dark side of magic and has been threatened by it. At its best, though, magic is just so wonderful that Harry is overcome. I had a similar reaction reading Joel Belz' opinion piece—"End of an Illusion"-- in the March 1 issue of World Magazine. Belz is well-known conservative Christian leader and is the founder of the magazine. His point was the end of the illusion that evangelical Christians have a lot of political power: "The problem with playing power politics is that you always run the risk of discovering--in public—that you really have no power." Concerning our pretensions, Belz adds, "God laugh[s]". This is why I love Christians. Who on the secular left or right would say, "we have been presumptuous"? And if anyone were to say that, would that person be including himself, as Belz is? I know I don't write that way. I don't think that way. Christians, and this true of believers generally, can remind themselves, and sometimes do, that they are servants. The rest of us usually don't remind ourselves of our limits and servitude. So, when we add up what we consider the sins of believers, let's include on the positive ledger, the potential of believers to lose their egos. In a spiritual vein, Eckhart Tolle's new bestseller, A New Earth, tells us to exactly that. But, maybe believers are way ahead of us.

Title: The Democratic Party Turns to Religion

Date: 2008-03-11T06:25:00.001-04:00

3/11/2008--On Sunday, 3/9/2008, Ann Rodgers, religion reporter for the Pittsburgh Post-Gazette, wrote a long front-page piece about the rise of "centrist evangelicals" in American life, specifically political life. Rodgers acknowledges that this right/left divide is a little misleading—in fact she quotes me to the effect that evangelicals over the past few years spearheaded American efforts to alleviate the AID's crisis and poverty in general in Africa. Rodgers notes that the Democratic Party had been hostile—some would say perceived as hostile, but I think hostile is the right word--to believers and that the Party now is taking steps to change its image. Furthermore, evangelical Christians are more likely to vote Democratic than they were four years ago. But, unlike most recent work in this area, Rodgers points out that this rapprochement cannot continue unless the Party either adopts different policy positions or is at least open to opposing perspectives. The main issue she mentions is abortion. Apparently, no matter how centrist believers become, they retain a strongly pro-life perspective. According to the story, believers do not see a pro-life position as inconsistent with care for the vulnerable, the poor, the environment and for peace. Rodgers is not suggesting that a Democratic Party Presidential nominee would have to be pro-life to gain substantial numbers of evangelical votes. But such a nominee could not expect to gain those votes without some type of "give" on the abortion issue, even if that means efforts to render abortion rare and unnecessary. What was most surprising about the article is that the issue of gay marriage received not a single mention. Rodgers is too good a reporter to have suppressed this concern on the part of her sources. I am left with the impression that gay marriage may not be the key issue for evangelical Christians that abortion is. If that is really the case, America may be closer to resolving its culture wars than I had dared to hope.

Title: More on Progressive Religion

Date: 2008-03-13T11:19:00.002-04:00

3/13/2008--I had no idea of all the reaction that writing about progressive religion would cause. My blog post of Friday, 3/7, on that subject attracted the attention of a well-informed and established blog by Mystical Seeker (<http://mysticalseeker.blogspot.com/>). He was critical of my view of progressive religion as a failure and he denied the necessary centrality of a literal resurrection, for example, to Christian faith.

He and I, and others, had some back and forth on this and related issues. As you would expect, some people suggested that there were limits on how far one could go reinterpreting the Christian message and yet remain a Christian.

On Saturday, March 8, this exchange was picked up by Thurman Hart on his Xpatriated Texan blog of faith and politics. (<http://xpatriatedtexan.com/blog/2008/03/08/is-progressive-faith-any-different-from-enlightened-belief#respond>). I found these comments also well-informed and worth pondering, although I cannot figure out how to respond by comment on his blog. On Monday, Hart posted another entry, this time concerning the critical responses to Mystical Seeker's Sunday blog--responses that seemed aimed to ride progressive reinterpretation of scripture right out of town.

Meanwhile, Mystical Seeker, whose name I don't know, had an exchange with me on Monday night. I wrote on the blog:

"The question related to whether one is still a Christian became so problematic for me that I felt I had to leave Judaism. But...this did not lead me away from the biblical tradition and into a vague spirituality or simple atheism. Can one be a biblical non-believer? I think so. Hence Hallowed Secularism. This position may be closer to the young, who have never learned the Christian or Jewish practice and story."

Mystical Seeker responded: "I can see where people who were not brought up as Jews or Christians may be less likely to be drawn to any kind of progressive form of faith, and may not see the point of getting involved in internecine squabbles over what constitutes "legitimate" Judaism or Christianity. I can thus see where your concept of Hallowed Secularism might have a better appeal for people in those circumstances. My own attraction to progressive Christianity has a lot to do with my Christian upbringing--I find myself drawn to Christian traditions and am engaged in an effort to try to make it somehow work, although to be honest it has not always been a completely satisfying exercise. If I had not been brought up as a Christian, my story might have turned out quite differently."

I am left with the strong impression that leaving Judaism was, for me, a necessary but painful step. One must pray and worship with a full heart and a total commitment. Constant reinterpretation is not conducive to such whole-heartedness. So, I had to leave even if others feel they can stay in their traditions.

But then where is the Hallowed Secularist? There is no such community. There is no such ritual. There really isn't any such movement. Hallowed Secularism right now is a form of exile. But this exile is necessary because pretending to be a Jew while denying most of what almost all Jews have believed feels like bad faith. And, if something new in religion for a secular future is really needed, it is probably something more radical than a mere reinterpretation of our previous traditions.

Title: Senator Obama Doesn't Get the Pennsylvania Primary

Date: 2008-03-15T11:06:00.002-04:00

3/15/2008--Last Thursday, James O'Toole of the Pittsburgh Post-Gazette, wrote a story about the different ways the Obama and Clinton campaigns are spinning the April 22 Pennsylvania Primary. For the Obama campaign, this primary is just another contest in the search for delegates. For the Clinton campaign, Pennsylvania is a must win for Obama. If Senator Clinton wins, she is the nominee. Even as a Pennsylvania Obama supporter, which I am, I agree with Senator Clinton. How can you be the nominee of the Democratic Party after losing the popular vote in California, New Jersey, Ohio, Texas and Pennsylvania? The only big state Senator Obama has won is his home state of Illinois and, of course, Senator Clinton won New York. It is true that a delegate is a delegate. If Senator Obama were actually going to win the 2025 delegates needed for nomination, it would not matter in what states or what order he won them. But no one is going to win the needed number. The superdelegates are going to decide the outcome. And, therefore, the perception of legitimacy is what will decide the race. If Senator Obama loses Pennsylvania, Senator Clinton's claim to the nomination is as good as his, despite his small delegate lead. In fact, I think her claim is stronger. The Democrats are not going to carry several of the states Senator Obama has won, even if he is the nominee. All of the above comes with a caveat. Apparently, the voters in Michigan and Florida will eventually get a second change at selecting a nominee for President. Winning either of those two states would be just as good as winning Pennsylvania. I only mean that Senator Obama must beat Senator Clinton in a big state at some point in order to be the nominee for President of the Democratic Party.

Title: The Gospel According to Anne Rice

Date: 2008-03-17T17:33:00.002-04:00

3/17/2008--Anne Rice, former chronicler of vampires, former pornographer, is now writing books about Jesus. Well, if the prodigal son could return.... Her second novel of this genre is Christ the Lord: the Road to Cana, which came out March 4. An excerpt was published in World Magazine's March 1 issue. Like most efforts to retell the content of the Bible, the book is not very good. Why do writers do this? Why not leave the Bible alone? Even Sholem Asch could not carry it off. In addition to not being well-written or interesting in any way, the excerpt is mindlessly literal. Rice's Satan is simply another character. Her Jesus just so perfect. The Bible itself, in contrast, is light-handed. The Bible is open even to us secularists. I have a suggestion to Ms. Rice. Write about God in this world we know. You are the one who could do it. No miracles. No supernatural beings. Show us God in the flesh, if you will pardon the expression.

Title: March Atlantic Monthly and the Influence of Religion

Date: 2008-03-21T15:48:00.002-04:00

3/21/2008--The March 2008 issue of Atlantic Monthly magazine is crowded with religion. The overall title is "Which Religion Will Win" comprised of three contributions: Eliza Griswold: The Contest for Africa, Walter Russell Mead: America's Evangelical Future and Alan Wolfe: The Coming Religious Peace. As a bonus, Christopher Hitchens, leader of the New Atheists, reviews *Memoirs of an Anti-Semite*, by Gregor von Rezzori. The article about Africa suggests a world-wide religious/national competition between Christianity and Islam that also implicates a competition between Islam and modernity. This competition has severe implications for the War on terror. (There was a somewhat similar story about Kenya in the New York Times Sunday Magazine on 12/23/2007). On the other hand, both Mead and Wolfe's pieces suggest instead a long-term growing trend of secularization in the world. This is the direction I think things will go as well. Modernity does not seem to be a force that is going away. Perhaps we are seeing the last of the religious wars. That does not mean these wars will not do tremendous damage. But it should be noted that disgust with the wars of religion spurred secularization in Europe and it may do so in the rest of the world toward the end of this century. The odd thing about Hitchens' book review is that for him, the only Jews mentioned are those who are not traditionally religious: Freud, Einstein and Marx. Judaism for him seems to be just another form of secularism. Perhaps he is right.

Title: Fundamentalist Religion, Secularism and the Real Thing

Date: 2008-03-23T13:33:00.002-04:00

3/23/2008--Friday night, my wife and I watched a Christian movie. The movie is entitled *The Perfect Stranger* (2005)—[not *Perfect Stranger*, the 2007 crime thriller]. The movie stars Pamela Brumley and Jefferson Moore. The movie is based on the novel, 'Dinner With a Perfect Stranger' by David Gregory. It tells the story of Nikki, a troubled attorney who one day receives a mysterious dinner invitation from a man claiming to be Jesus of Nazareth. Throughout their evening of conversation, arguments and spirited debate, Nikki learns things she never knew about life, the universe, and most importantly, herself. [from somebody's plot summary]. It's a great movie. It presents fundamentalist theology, to be sure, but it doesn't shy away from difficult questions—for example the painful death of Nikki's father. My reaction to the movie was simple envy. Nikki is able to get over her doubts and embrace Christ. And I wanted to, also. Three points for reflection. First, in the movie, God is an all-powerful, all-loving being. So, everything really is God's plan. We just don't understand it. Nikki comes very close to telling Jesus that if it was his plan that her Dad die, he could take his religion and shove it. This formulation for God is just impossible. Second, the inerrancy of the Bible is necessary to the movie's perspective. Therefore, scientific accounts of evolutionary theory, and really the age of the earth, must be rejected. For all the power of the movie and the sincerity of its makers, this kind of thinking must eventually go the way of the dinosaurs (which is as close to dinosaurs as humans have ever gotten). Finally, for all that, there is real power in this movie. Nikki is changed. Radical and selfless love becomes a possibility in her life for the first time. I do not see how any alternative can bring this kind of transformation. On this Easter Sunday, let's concede that resurrection is needed, even if it is impossible.

Title: Murray Chass Doesn't Like Religion

Date: 2008-03-26T14:44:00.003-04:00

3/26/2008--Imagine that the Pittsburgh Pirates announce a "Polka Night" promotion for a baseball game. That night, a polka band will play after the game. There will be no polka music during the game, but the stadium will of course be filled with polka enthusiasts. Now imagine that I hate polka music. Do you think I would be justified in complaining to the Pirates about this promotion? Of course not. The team would just respond, "Leave after the game and you won't be bothered." But what if I then said, "But look how polka music is destroying music in this country. And now you are helping." I would sound like a nut. Although I am sympathetic to this hypothetical person—I really don't like polka music—it would seem that this person is infringing on the rights, and just plain enjoyment, of other people and of the attempt by a ball club to engender good-will and make some money. Most people would agree that Polka Night was none of this person's business. This is how I feel about New York Times columnist Murray Chass who, on March 14, 2008, complained about "faith nights" at minor, and now major, league ball parks. He called for a separation of church and baseball. He was not kidding. It's not inclusive, he wrote. Worse, baseball players will be giving testimony after the games to their faith in Jesus Christ. "Why should teams be in the business of promoting any particular religion?" Chass asked. No segment should be singled out. What Chass is saying is, "I don't feel comfortable around religious people." He should get over it. Being religious is a good thing. The teams are not having a night for rapists. Secularists have gotten the idea that they own public space. And that they the right to decide who is permitted to be there. Christians don't have to hide. They don't need permission from secularists to appear in public. They have just much right to the ball park as polka players or anyone else. Chass' discomfort is a personal flaw. And don't bother to point out that Murray Chass is Jewish. I assure you he would just as uncomfortable if the Yankees had an Orthodox Jewish Night.

Title: Secularists and Tibet

Date: 2008-03-29T06:24:00.002-04:00

3/29/2008--As a secularist, I have noticed who confronted the Chinese authorities in Tibet over the suppression of Tibetan culture—monks. It is monks who are keeping alive the spirit of freedom in Tibet. And the same was true of the monks in Myanmar in September, confronting the military government there. Not secular reforming liberals. Monks. And apparently they did so with full popular support. This is reminiscent of the role of the Catholic Church in confronting communist tyranny in Poland in the 1980's. And in America, who has spoken for the poor and the illegal immigrant? As I remember, the Catholic Bishops were the major force opposing the end of welfare. And, campaign rhetoric aside, the Democratic Party supported NAFTA (which indeed may actually be a good agreement for all sides). Secularism in America has not developed an alternative to market economics. At the same time secularism has grown, capitalism has been increasingly unshackled, for good and ill. What is the source of opposition to power? Opposition to the way things are? And, what kind of opposition leads to liberation of the human spirit? I suggest Our Religions are closer than we secularists are, to that source.

Title: What's Wrong with Progressive Religion?

Date: 2008-03-31T10:32:00.002-04:00

3/31/2008--When I wrote my manuscript, *Hallowed Secularism*, I did not pay much attention to progressive religion. I just assumed that everyone is basically stuck, as I was, between unbelievable institutional religion and secularism. I knew the theological and historical work of Marcus Borg and John Shelby Spong, and others, but I could not see any of this shaping life in the pews. Because I had never been a Christian, I did not look seriously into Progressive Christianity. I have since discovered through progressive blogs such as *Find and Ye Shall Seek* and *XPatriated Texan* that people are attempting to do what I considered to be impossible. [In some future entry, I will have to deal with the gap between Progressive Christianity and Progressive Judaism. It seems to me that the latter is far less theologically sophisticated, and thus less likely to be helpful, than the former.] One important recent progressive religion book, which argues for a radical reinterpretation of Christianity, is *"With or Without God, Why The Way We Live Is More Important Than What We Believe"* by Reverend Gretta Vosper. She is the minister of West Hill United Church in Scarborough, Canada and the founder and Chair of the Canadian Centre for Progressive Christianity. According to the book's description, Vosper writes that the emphasis of Christians needs to be not on God or Jesus, but on compassionate and just living. This theme is reminiscent of the Unitarian Universalist Church around the corner from me in Pittsburgh: Allegheny Unitarian Universalist Church, which emphasizes social justice in its ministry. I look forward to reading the book (although it is curiously difficult to find in the U.S.). But I come to the book skeptical of the theme in its title—that how we live is more important than what we believe. I have been trying in recent years to figure out what I believe. This is very important to me. The de-emphasis on such matters in books like this one, and more generally the distaste for theology in progressive religion, creates a strange anti-intellectualism. And I think this comes from a reluctance to admit just how far from traditional Christian understanding people have moved. In addition to my hunger for thinking, I distrust justice, which seems foundational to progressive religion. And I distrust politics, although I engage in it. I don't want justice for myself because I am a sinner. I want grace and generosity instead. And policy—politics—in a fallen world is always compromise. What your political opponents say is always partly right. What was Jesus' greatest teaching? Maybe himself, which Progressive Christianity has a hard time with. Aside from that, Jesus' greatest teaching has to be the parable of the Prodigal Son. Progressive religion reminds me too much of the elder brother in that parable.

Title: Death and Resurrection

Date: 2008-04-02T12:13:00.001-04:00

4/2/2008--Today, a celebration of the conversion experience of Arthur Waskow, which points us in the direction of Hallowed Secularism. Waskow sent the following account of the creation of the Freedom Seder in 1968 to his e-mail list today. I have edited it, but I recommend the whole account from the Shalom Center,

<http://www.democracyinaction.org/dia/organizationsORG/tsc/signUp.jsp?key=442>.

It begins as follows:

“Death and Resurrection? Christian theology, of course, centers on that rhythm. Traditional Jewish prayerbooks also praise the God Who "gives life to the dead," but most modern Jews have either deleted or bowdlerized or ignored that passage. Forty years ago, I was the kind of activist secular Jew who not only ignored that passage, but ignored the prayerbook altogether. Yet precisely forty years ago I experienced a profound - and profoundly unexpected -- death-and-rebirth of my own self, deeply intertwined with the American agonies of that spring, that year.”

Waskow describes what happened after the assassination of Martin Luther King on April 4, 1968.

“By noon on April 5, Washington was ablaze. It was touch and go whether 18th Street - four houses from my door - would join the flames. Just barely, our neighborhood's interracial ties held fast.

By April 6, there was a curfew. Thousands of Blacks were being herded into jail for breaking it. But the police did not care whether whites were on the streets. So for a week, my white co-workers and I brought food, medicine, doctors from the suburbs into the schools and churches of burnt-out downtown Washington.”

Then the miracle happened, the deep sense of connection to eternity.

“And then came the afternoon of April 12. That night, Passover would begin. For me, it was worth doing because it echoed years of family and mentioned freedom. It was my only Jewish ritual, a bubble in time that had no connection with the rest of my life. So I walked home to help prepare the Seder. On every corner, detachments of the U.S. Army. On 18th Street, a Jeep with a machine gun pointing up my block. Somewhere within me, deeper than my brain or breathing, my blood began to chant: "This is Pharaoh's army, and I am walking home to do the Seder.””

Suddenly, the “religious” ritual of the Passover Seder became something real to Waskow.

“For the first time, we paused in the midst of the Telling itself, to connect the streets with the Seder. For the first time, we noticed the passage that says, "In every generation, one rises up to become an oppressor"; the passage that says, "In every generation, every human being is obligated to say, we ourselves, not our forebears only, go forth from slavery to freedom." In every generation. Including our own. Always before, we had chanted these passages and gone right on. Tonight we paused. Who and what is our oppressor? How and when shall we go forth to freedom?”

A few months later, Waskow began work on what would become *The Freedom Seder*.

“That fall, I dug out my old Haggadah, the one I had been given when I turned 13, the one with Saul Raskin's luscious drawings of the maidens who saved Moses from the river, the one that stirred my body each spring, those teen-age years. Into its archaic English renderings of Exodus and Psalms, I intertwined passages from King and Thoreau, Ginsberg and Gandhi, the Warsaw Ghetto and a Russian rabbi named Tamaret -- wove them all into a new Telling of the tale of freedom. Where the old Haggadah had a silly argument about how many plagues had really afflicted Egypt, I substituted a serious quandary: Were blood and killing a necessary part of liberation, or could the nonviolence of King and Gandhi bring a deeper transformation?”

What happened to Arthur Waskow can happen to everyone of us. Only in this way, can the old rituals live. This is Hallowed Secularism.

Title: Preparing for Passover

Date: 2008-04-04T09:54:00.001-04:00

4/4/2008--Here is a joke from the Pittsburgh Jewish Chronicle, a weekly paper--when you ask a Jewish mother to do something, there are two responses: before Passover she is too busy; after Passover, too tired. Unlike the preparation for the High Holy Days, preparation for Passover is almost universally regarded a) as non-moral/non-ethical, that is as objective cleaning of the home and b) as women's work. But, why work so hard to remove Chomitz (leavening)? What is the point of this enormously busy work? The Seder itself has also become an objective performance, consisting of white table cloths, beautiful plates and delicious food. But, again, why all this? There is the "family" aspect of the holiday. But this is akin to the taste of Mom's ham on Easter. These are the intimate rituals of family life. They are not insignificant, but they do not draw even a millimeter closer to the deepest pattern of reality. Liberal Jewish groups for years have added prayers of various kinds to the Seder, such as for peace among the children of Abraham. Feminists have added symbols as well, such as Miriam's Cup. But these prayers and symbols are literally added to a Seder ritual and to a holiday that are themselves no longer meaningful. Since the preparation for Passover is still the woman's job, the holiday is the most sexist of any holiday I know in any religion, whether symbols are added to the Seder table or not. What is especially odd in all this is that the Haggadah seems to understand the Seder as a discussion group. There should be no meal. There should be no singing. There should be the text from Exodus and other texts celebrating the liberation of slaves. Maybe we should all read the sermons of Reverend Wright, to get a more slave-like perspective. (See the prior post about Rabbi Waskow's Freedom Haggadah). What we who do not know God—we secularists--want to know, is the weight of liberation in history. Do slaves go free? Do slaves go free by human effort alone? Are these even meaningful questions? It is fair to add that liberation in the Passover sense is entirely about history and not about psychology. It is not my liberation from the quirks of my own personality and context. It does not seem fruitful to ask, for example, how each of us is a slave. Perhaps, as Americans, we should ask whom we enslave. But that might lead to canned speeches about Iraq. Maybe, instead, slavery is a structure rather than a policy. Maybe power always enslaves. We could then ask how America could be liberated, even liberated from itself.

Title: The Battle for Our Religions
Date: 2008-04-06T08:13:00.003-04:00

4/6/2008--Fresh reminders today about how difficult it is for non-violent, tolerant religious believers to hold their own against those believers who have a more unrelenting view.

We think of Judaism as a "modern" religion and Islam as a violent one. And it is true that acts of assassination are rare among Jews, although not unheard of, unfortunately. But there is a sense in which the religious drive to occupy all of the lands of the mythic Davidic Kingship, the drive for Judea and Samaria, led to the disastrous post-1967 occupation that has poisoned relations between Israelis and Palestinians. And, although most American Jews no doubt rejected this biblical interpretation, I don't remember hearing "religious" objections to it in synagogue in all the years since.

Similarly, we think of Islam as violently resistant to conversion among Muslims. But World Magazine reports in its April 5-12 issue on the threats and assaults that Messianic Jews in the Israeli Town of Arad in the Negev have been receiving from "ultra-Orthodox" Jews there and the assistance this campaign of harassment has received from the Government of Israel. One such Messianic Jew was quoted as saying of the ultra-orthodox: "Many Christians are shocked to hear what these men in black are doing to Christians here. Many have the mistaken idea that these men are somehow 'holy,' but that is very far from the truth."

Even if the media reported on these events, liberal Jews would not denounce the ultra-Orthodox. For one thing, Jews in general are against conversion by members of a sect many find misleading in their claims to be Jewish. Second, it is always easier to ignore interpretations of one's religion that are ignorant and backward.

Conversely, the New York Times Book Review today contains Fareed Zakaria's gushing review of "Reconciliation," Benazir Bhutto's posthumous defense of an Islam protective of human rights and democracy. Whatever her failings as a politician, Bhutto gave her life for her vision of an Islam at peace with the world, governing and benefiting the lives of millions of people.

If your first commitment is to Enlightenment values, as is really the case with most progressive Jews and Christians in America, you are at a disadvantage contesting with conservative believers. Bluntly, they believe and you really don't. It took a Martin Buber and an Abraham Joshua Heschel, genuinely radical believers, to take on religious conservatives in good faith. It took a Martin Luther King, Jr.

This is in part why I gave up Judaism and now consider myself a secularist. It is also why I admire those who have stayed to fight for the soul of Our Religions. But it is the same fight, whether the issue is the rights of gays to be married in America or Jews who believe in Christ to live in Israel. We must stop looking down on Islam as different and stop making demands on "moderate Muslims" that we do not fulfill in regard to our own faiths. Bhutto's book shows us a model for progressive religion and a model for a courageous life trying to make that vision a reality.

Title: Hallowed Secularism and the Dalai Lama

Date: 2008-04-08T06:26:00.003-04:00

4/8/2008--Holly Morris writes in the New York Times Book Review that she is confused about why Pico Iyer—the well-known travel writer—would write an account of the Dalai Lama [The Open Road: The Global Journey of the Fourteenth Dalai Lama]. She writes, “Iyer has long wondered ‘how globalism could acquire depths, an inwardness that would sustain it more than mere goods or data could’. And ‘if our new way of living were to offer any real sustenance’, he posits, ‘it would have to be invisible, in the realm of what underlies acceleration and multinationals.’” (“Searching for the Dalai Lama” 4/6/2008). Readers of this blog will not find Iyer’s concern at all confusing. Morris thinks Iyer is just curious. But you and I know what is bothering Iyer. He is looking for what Peter Berger calls the “signals of transcendence” in ordinary human life. That is Iyer’s understanding of the “invisible.” The question is, how can we have that when our traditional sources of religion are exhausted? Human beings cannot live lives of simple materialism. We need what is referred to as the spiritual realm and a social meaningfulness expressed in history. But the dogmas of Our Religions, including those of Buddhism by the way, are not credible to many of us. The Dalai Lama is a kind of non-dogmatic transcendence, walking around. Jesus was like that too. That is why a secular world holds on to the Dalai Lama, looking to him and his example, for deepened living. Unfortunately, this love-affair with the Dalai Lama is only a romanticism. For secularism to work ultimately as a sustainable way of life, many sources of depth must be found. And ways of life to practice deepened living. The earnest and disciplined effort to do that, is Hallowed Secularism.

Title: The In-finite

Date: 2008-04-10T11:04:00.002-04:00

4/10/2008--How to think the finite and the infinite. This seems to be the problem for secularism. But, look at the word. The infinite is literally "in" the finite. That is the message of Hallowed Secularism. You don't lose eternity by living the here and now. But the taste of eternity you can get here and now is all there is. There is no other eternity--not for us. We are finite creatures. As Buber suggested, somewhere, in explaining why he had no interest in heaven: if we were eternal, we would not be who we are. And Buber had no interest in the different beings we would then become. There are no human beings in heaven. And there would be no human beings on the Great Day of Resurrection.

Title: Amitai Etzioni and the Head Scarf Issue

Date: 2008-04-12T15:39:00.002-04:00

4/12/2008--The following post, by the well-known Communitarian thinker Amitai Etzioni, was sent out by the Communitarian Network. It suggests the kind of openness toward religious practices that a Hallowed Secular culture would manifest. I wanted you to see it.

Let Them Wear Scarves Can you explain to me why thoughtful people, including several renowned public intellectuals, oppose the right of women to choose to wear headscarves -- on campuses out of all places? The same people, commentators, editors, and other talking heads who strongly hold that a woman has a right to do with her body whatever she pleases -- third trimester abortions, abortions without notifying her husband, piercing everything that sticks out and a lot that does not -- but not to cover her hair with a piece of cloth.

Yes, yes I know (I have been paying dues as a sociologist for 50 years) that a headscarf is not simply a piece of cloth any more than a flag is, or for that matter a yarmulke. It is a religious symbol, alright. However, do women have the right only to choose secular symbols? Are there still people on the liberal left who believe that religion is passé, is history, a sign of narrow-mindedness and bigotry? Actually, religion is rising all over the world, with a few exceptions in northwest Europe, in part because secular humanism does not answer many of the profound spiritual questions religion addresses, such as why we were born to die, and what are our uncontested duties and obligations. But even if religion is a relic, since when are free people banned from worshipping outmoded idols?

Headscarves are said to be the insignia of the enemy, somewhat like the headgear of gangs (whether these should be banned, as they are in some cities, is a question for another day). Even if this was true, banning the symbolic expressions of a normative position will do nothing to undermine it and will merely alienate its followers. Indeed, it would grant them a strong cause.

Most importantly, religion in general and Islam in particular is not the enemy. Attempts to demonize all Muslims, as Bernard Lewis, Sam Huntington and their followers have famously done, are wrong headed. The majority of Muslims, I have shown elsewhere [[here](#) and [here](#), for example], are opposed to terrorism, violence, and coercion. Labeling them all as fanatical people bent towards violence is to greatly enlarge the ranks of our adversaries and to push to the other side of the dividing schism many who are our natural allies if we seek peace (although not if we demand that everyone adopt the French and American model of separation of state and religion, a model not embraced by most democracies).

Headscarves are a test: a test of Western tolerance for legitimate differences among cultures and societies and within them. True, when wearing them is forced on women, as is the case in Iran and Saudi Arabia, they should be opposed like other such coercive dictates. However, at issue recently has been the lifting of the Turkish government's ban on students wearing these scarves at Turkish universities, the French ban on Muslim women wearing the scarves in public schools, and the German ban on the scarves in some government buildings. Here some say that wearing these religious symbols reflects peer pressure or pressure from traditional parents.

Well, if we banned people from wearing that which their peers or families promoted, they would run around naked. It is not the role of the state to counter peer and family pressure, as long as it remains nonviolent and the door is not closed on other social forces promoting their views.

Others argue that the headscarf is not so much a religious but a political symbol, as Anne Applebaum does in *Washington Post* -- this only makes my point stronger. Since when do we ban people in a democracy from displaying symbols that communicate their political viewpoints - whether these are, say, pro-gay rights ribbons, or the peace signs of those who oppose nuclear weapons?

As for the concern that one thing will lead to another, that soon women may be forced to wear the headscarf where now they are merely encouraged to do so, here is the place to draw the line in the sand and fight such an imposition. But to ban voluntary scarf-wearing out of the fear that one day it may lead to forced scarf-wearing is like saying that you cannot have dinner because one day you may be force-fed like some goose. Let them wear headscarves, yarmulkes, and crosses, too. Originally posted on the Huffington Post at http://www.huffingtonpost.com/amitai-etzioni/let-them-wear-scarves_b_96083.html

Title: Senator Barack Obama's San Francisco Comments

Date: 2008-04-14T10:20:00.004-04:00

4/14/2008--Today must be the first time that William Kristol quoted Karl Marx at some length in the New York Times. The occasion, of course, was the controversy over Senator Barack Obama's comments at a San Francisco fundraiser. You have presumably already read what Senator Obama said. Here is Kristol's quote from Marx ("Contribution to the Critique of Hegel's Philosophy of Right"): "Religious suffering is at the same time an expression of real suffering and a protest against real suffering. Religion is the sigh of the oppressed creature, the sentiment of a heartless world, and the soul of a soulless condition. It is the opium of the people." Kristol is making the point that Senator Obama, like Marx, sees people clinging to religion out of pain. Kristol seems to be right about that. And that should remind us that Senator Obama's comments were not a putdown of guns and religion. Marx is not saying—here at least--that religion is bad, unneeded or untrue. Indeed, insofar as Senator Obama was claiming that people victimized by powerful interests can be distracted by side issues instead of addressing the real cause of their pain, he was making an argument like that of Thomas Frank in his book, *What's the Matter with Kansas?* So, is the attack on Senator Obama for these comments, unfair? No. They are not unfair. What was great in Senator Obama's speech about race is that he spoke to us about us. What was shameful in his remarks in San Francisco, is that he spoke about people to others rather than to the people themselves. To my knowledge, Senator Obama had never said anything like this in a small Pennsylvania town. The flaw, therefore, that his comments demonstrate is not elitism, as his critics say, but political cowardice. He is now paying the price not for speaking his mind, but for failing to do so.

Title: Global Warming and Carbon Taxes

Date: 2008-04-16T07:59:00.002-04:00

4/16/2008--This post begins an occasional series in which I will address particular issues of importance to our future. These issues do not always bear a direct relationship to Hallowed Secularism, but in the future world of Hallowed Secularism, they will of course have to be addressed. I begin this series with carbon taxes and global warming. In last Sunday's New York Times Magazine, Deborah Solomon interviewed Gorver Norquist. Norquist is the anti-tax crusader who has so much influence in the Republican Party. Undoubtedly, some of Senator John McCain's recent tax cutting proposals represent attempts to woo Norquist's support. Norquist called McCain a Bohshevik after McCain originally voted against President Bush's tax cuts. In the interview, Norquist called carbon taxes "nonsense". This was his full response on the issue: "If you let people own their land, they take care of it. That's why privately owned land is always taken care of, and the parks look like cesspools. Nobody takes care of what everybody owns." There is, of course, a great deal of truth to this observation, which was explained in Garrett Hardin's 1968 essay, The Tragedy of the Commons. It's too bad that Solomon does not know enough economics to have challenged Norquist's statements. What Norquist either does not understand or, more likely, intentionally omits is that this problem of ownership is precisely why carbon taxes are proposed. No one owns the climate. If someone owned the climate, you would have to pay that person to change it. Every time you drove your low mileage car, you would have to pay or outbid coastal property owners, ski operators, wheat farmers and so forth, for the right to take away their property and livelihoods. You would have to pay so much for this right, that climate change would not happen. It would be too expensive. Norquist doesn't want the market to work or he would support carbon taxes. He just wants to take other people's property without paying for it. He's just like the government he says he opposes. In fact, he's a thief.

Title: Modern Arbitrariness

Date: 2008-04-18T16:30:00.001-04:00

4/18/2008--Hallowed Secularism is in part an attempt to return to ground. Or at least an attempt to aim at returning to ground. Much of modern life in America seems like an oscillation between opinion and ideology. Both opinion and ideology seem at the same time arbitrary and totally determined. This is part of the sense of being stuck that I feel all the time in American life. The German philosopher Martin Heidegger saw this in the late 1930's, in Contributions to Philosophy, a work of unpolished thinking that he did not publish. It sat in his drawer. Heidegger calls both opinion and ideology "worldview"—opinion for every individual and total worldview for ideology that extinguishes opinion. The former is boundless in its arbitrariness and the latter is rigid in its finality. (Anyone who has tried to discuss a matter with a communist or a capitalist knows this). These two sides of worldview are both opposite and the same. Total worldview is true as a kind of overall opinion. And opinion is what is possible for each individual "as finally valid only for him." This dominance of worldview springs surprisingly easily to our lips. But it is deadly. As a cheap repentance for our past colonialism (of various kinds), we now embrace relativism. But, we don't really embrace relativism because we are still willing to pay soldiers to kill for oil and we are still willing to purchase products—and eat meat (my failing)—no matter what the cost to the planet and to others. We say "to each his own". But, in crucial matters, we don't mean it. Relativism in irrelevant matters was manifest in the 4/14/2008 announcement by the Center for Progressive Christianity that Pentecost, Sunday May 11, will celebrate religious pluralism: the "belief that other religions can be as good for others as Christianity is good for Christians." I hope you heard Heidegger there—religion "as finally valid only for him." All religions are not equally true and are not equally good for people. I am happy to say, for example, that those religions that oppress women are wrong and they will one day change. We only say that religions are equally valid because on the deepest level we are indifferent to what religions teach. Religion is mere decoration. Hallowed Secularism aims at truth above all else. It abhors not truth but violence in the pursuit of truth. And it remains open, I hope, to its own constant error.

Title: Eating Bread on Passover

Date: 2008-04-20T06:32:00.002-04:00

4/20/2008--I was asked by a friend who knows something of my current religious situation why I am not celebrating the rites of Passover. After all, many secular and humanistic Jews do so. There are even websites and communities for Humanistic Judaism. My rejection of Jewish forms is not a criticism of this choice by others. Jews who do this are retaining their communal ties to the Jewish people. For me, however, that would emphasize the wrong tie of community. In the movie, *The Ten Commandments*, Moses knows that he cannot be in community with his fellow Hebrews without experiencing slavery. So he renounces, or tries to, the privileges of his position as the son of Pharaoh's daughter and becomes a slave. My people now are secularists, like myself, cut off from the reassuring practices of organized religion and trying to live a new, meaningful way of life without much of a guide. Of course, this community of people is not a community at all, yet. It has no self-awareness, no sense of itself. It is being born. I eat bread on Passover in solidarity with my fellow secularists. I have renounced the privileges of a Jewish way of life. In this way, I experience the slavery of this culture's materialism and pray for liberation to a quite unknown God. Last night, the traditional night of the first Seder, my wife Patt and I spent a wonderful time drinking wine, watching *Crimes and Misdemeanors* (surely the best American reflection on the degrees of good and evil--with a great Seder scene), reading in St. Francis de Sales and Waskow's classic, the *Freedom Haggadah*. It was quite a celebration, which is always a good idea, even for a secularist. Incidentally, it is a scandal that the *Freedom Haggadah* is out of print. It holds up wonderfully well. I urge progressive Jews to give it a try again and stop reinventing the wheel all the time.

Title: The Power to Change the World

Date: 2008-04-22T06:21:00.005-04:00

4/22/2008--From where does the power to change the world come? There is a glimpse of that power in the enthusiasm of the young for Senator Barack Obama. But he is a politician. It is rare that a politician can sustain that kind of enthusiasm. Or really be deserving of it. In a remarkable essay in Harper's Magazine (May 8, 2008), the novelist Marilynne Robinson reminds us of the strange power and goodness of the abolitionist colleges founded in the American Midwest, inspired by the Great Awakening. These schools linked "popular religion and high intellectual achievement...religious enthusiasm and generous and transformative change." Even Robinson betrays some secular surprise that religion could be so great: "Many of these colleges were racially integrated and integrated by gender...before the Civil War. ...These schools were radical despite the fact that an intense, if to us rather mysterious, piety was cultivated by them." No, not "despite"—because of their piety. The power of radical transformation lies in the knowledge that there exists in reality power for good apart from human intention. We see it again and again. In Pope John Paul II in Poland, the monks in Myanmar and Tibet, Bishop Romero, Martin Luther King, Gandhi—the list is endless. When will secularism wake up from its ignorant hostility to religion? Granted, we secularists cannot be religious in someone else's way. But we had better find our own way to be religious. Otherwise, we will never be able to challenge the increasingly dark status quo. On this Earth Day, the need for power to change the world--without violence--has never been obvious.

Title: The Holidays of Hallowed Secularism

Date: 2008-04-26T08:08:00.004-04:00

4/26/2008--Now that Passover is ending, it seems to be a good time to think about the holidays of Hallowed Secularism and their relationship to the holidays of Our Religions, specifically, Christianity and Judaism. The great themes of the Pilgrimage Festivals in Judaism—Passover: Freedom/ Shavuot: the Law/ Succot: Thanksgiving for the Harvest—already have their secular counterparts. America's liberation is celebrated on July 4. The celebration of the law could be Constitution Day, September 18. Thanksgiving is already the counterpart to Succoth and has been understood that way from the beginning. What is missing, and what is difficult to develop in secularism, is the theme of sin and repentance that Jews acknowledge on the Ten Days of Awe, culminating on the Great Fast of Yom Kippur. I would propose the birthday of Martin Luther King, Jr., on January 15, as a day of national fasting and renewal in light of the national sins of slavery and oppression of native people. I admit that this does not quite fit since it lacks the personal element. Yom Kippur is not a holiday of history, but is personal. What about the Christian holy days of Christmas and Easter? For a very long time, they will remain part of America's national rhythm. Christians will go on celebrating them when the culture has become thoroughly secular, just as Jews will celebrate their holidays. For the eventual secular majority, the Christmas-New Year period should remain a celebration of renewal, much as it is now. It would be wonderful if Christmas Day itself became an anti-consumption day, or sustainability day, instead of the commercial orgy it is now. As for Easter, the most orthodox Christian holy day, I always thought it should have been Earth Day. The theme of resurrection makes it the perfect day to celebrate the resurrection of the natural world in spring. On the other hand, Easter is the hardest holy day for secularism to understand because of its mysterious Christian origin. It would perhaps be best to leave it alone. As America becomes even more religiously pluralistic than it is now, the holy days of other religions will be added to the national calendar. Secularism, of course, will borrow these other themes as well.

Title: Anti-Religion, Progressive Religion and Religion

Date: 2008-04-28T10:44:00.001-04:00

4/28/2008--The Sunday New York Times on 4/27 is a reminder that the intellectual world in America and some of the rest of the West can be divided, almost neatly, into three categories: anti-religion, progressive religion and religion. The anti-religion position was represented by Martin Amis, whose book, *The Second Plane*, is reviewed in the Book Review section, and Ayaan Hirsi Ali, whose relationship with the Muslim reformer Irshad Manji is described in *Ideas and Trends*. Anti-religion people are atheists and see no reason why anyone should be anything else. Amis says "there are no good excuses for religious belief—unless we think that ignorance, reaction and sentimentality are good excuses... ." Ali wants Muslims to adopt "secular humanism" and I am sure she would say the same about Christians, Jews and all other religious people—[unless their religions already were secular humanism, see below]. The Progressive religious side is represented by Manji, who calls for an "Islamic Reformation" after which there would be "no need to choose between Islam and the West." This can happen because "the Koran has the raw materials to be thoughtful and humane." Manji is similar to Christians and Jews who, for example, support gay marriage despite what the Bible says about homosexuality. The problem for progressive religion is that the values underlying this position do not come from the religion the person is practicing, but instead come from the Establishment tradition. Manji, for example, is holding the Koran up to the standards of "thoughtful and humane" and seeing how the Koran stacks up. She is not holding the norms "thoughtful and humane" up to the Koran to see how they stack up. Thoughtful and humane are self-evidently good. Despite Manji's reference to the Reformation, Luther did not do this. Luther held the Catholic Church up to his understanding of the Bible. Luther was not a progressive believer. Luther was a religious believer. The religious side was not represented in yesterday's New York Times, except by negative inference. The values of the religious believer come from his or her religion rather than from some other source. The hallowed secularist does not fit these three categories very well. He or she is not anti-religion because religion has so much to teach us. Not a progressive believer either, despite also being between worlds, as the progressive believer is. The hallowed secularist is in a sense religious--willing to measure modernity according to the standard of religion, rather than the other way around. The hallowed secularist, in this sense at least, is a religious believer, for whom some of the truths of Our Religions entirely surpass the so-called truths of the modern world.

Title: Healthy Secularism

Date: 2008-04-30T15:46:00.001-04:00

4/30/2008--Pope Benedict was quoted today in the Catholic News Agency reflecting on his trip to the United States. This was the Pope's overall comment—I'm not actually sure what is an exact quote and what is a paraphrase: The United States "in its multicultural plurality and founded on the basis of a 'happy marriage' of religious principles, ethical and political rights, is an example of a healthy secularism." This is rather an astounding statement from the Pope. The Pope is not speaking of religious believers. He is addressing a culture he recognizes as pluralistic. And the Pope is characterizing this culture as secular at base, rather than oriented to a religion, or even religion in general. But, he implies, to be healthy, such a secularism must be oriented to religion in a sense. The culture must have an understanding of the holy, or the infinite, or the beyond, or simply the ontological reality of human rights—that rights are not the gift of the powerful but have substance in and of themselves. Of course this is what I mean by Hallowed Secularism. This is the only kind of secularism that is healthy, and thus sustainable. Contrast the Pope's vision with that of Issac Kramnick and R. Laurence Moore, in their book, *The Godless Constitution* (2d ed. 2005). They describe "secular politics" as involving "individual interest and happiness". There is no basis in such an individualized secularism for genuine community or human solidarity. Everyone in such a world is a use value for everyone else, serving my individual interest and happiness. Give me the Pope's vision of secularism any time.

Title: The Hatred of Islam

Date: 2008-05-02T17:51:00.002-04:00

5/2/2008--We are seeing a growing demonization of Islam that even religious people of good will—Christians and Jews—are participating in. Three recent examples: In a recent issue of World Magazine, which purports to speak as a Christian News Magazine, Mindy Belz positively profiles Robert Spencer, the author of Islam Unveiled. Spencer has been blogging on the Qur'an line by line, to help us understand "our enemy" (I am not kidding). The point being that Christians and Muslims do not worship the same God. This conclusion is particularly striking given the recent decision by the Malaysian Government that no one but Muslims may use the word "Allah" to refer to God, even though this is the word that Arabic speaking Jews and Christians have always used for the God of the Bible. Christians have opposed this ruling, but apparently Belz now agrees with it. Second, the same issue of the magazine reports without comment about an investigation by the ACLU of a charter elementary school in Minneapolis that teaches Arabic culture while receiving public money. Among its sins, the school offers carpeted areas for daily prayer, a halal menu in the cafeteria and after-school classes on the Qur'an. As World magazine must surely know, and as the magazine would be the first to point out were this a charter school run by Christians, all of these accommodations to the religious practices of the students are probably constitutional on current interpretations of Establishment Clause cases. This appears to be mere prejudice by the magazine against Muslims. Finally, and by far the worst example, the New York Times reported on April 28, 2008 how Debbie Almontaser has been removed and mistreated in her efforts to create an Arabic culture public school in New York City, even though Ms. Almontaser is by all accounts a peace-loving Arab-American faithful both to Islam and to her American heritage. It turned out that to some people, that was actually why she was a threat. Critics like Daniel Pipes accuse law-abiding Muslim-Americans of imposing their religious values in the public domain—as if Pipes owned the public domain. They are outraged that Harvard University now has a gym with female-only hours to accommodate Muslim women. [The Jewish Center in Pittsburgh has had this for years to accommodate Orthodox Jewish women who want to swim.] It's as if the world has gone crazy. Not only do certain secularists hate Islam, which you might expect, but now it seems Conservative Christians are joining them.

Title: The May 7 Evangelical Manifesto

Date: 2008-05-04T08:09:00.002-04:00

5/4/2008--Unbeknownst to most people, especially most secularists, a group of leading Evangelical Christians are scheduled to unveil a Manifesto this coming week. According to World Magazine, The document is entitled "An Evangelical Manifesto: The Washington Declaration of Evangelical Identity and Public Commitment". The group is composed of, among others, Leith Anderson, president of the National Association of Evangelicals and several well-known ministers, such as Rick Warren ("A Purpose Driven Life"). If the document is read by secularists, it will surprise them. For one thing, it contains confessions of failure—something we secularists hardly ever do—concerning a range of matters, including the feel-good gospel: "commercial, diluted, and feel-good gospels of health, wealth, human potential, and religious happy talk." The Manifesto also criticizes the lives and lifestyles of the movement as slavish to modernity. Obviously the heart of the document is a confession of faith in Jesus Christ. And it promises protection for the unborn and heterosexual marriage. So there will be plenty here for people to take issue with. But listen to these promises and ask yourself if you know any movements that can say the same—even just say it: "What we are about is... care for the poor, the homeless, and the orphaned; our outreach to those in prison; our compassion for the hungry and victims of disaster; and our fight for justice for those oppressed by slavery and human trafficking." No movement outside religion that I know of can say all this. Liberals in my neighborhood have long considered the homeless to be enemies—and I include myself. Theologically, the Manifesto will also surprise many, for it distinguishes Evangelical Christianity from both "liberal revisionism and conservative fundamentalism." Nor does it call for a "Christian America". Its vision of the public square is right out of Hallowed Secularism—citizens of all faiths free to engage the public square, including the secularist (so named) in a just and free public space. It sounds pretty impressive to me and I urge you to watch for the announcement this week.

Title: The Need for Religious Training for the Young

Date: 2008-05-06T05:59:00.002-04:00

5/6/2008--I just looked at C.S. Lewis' *A Grief Observed*. This is Lewis' moving account of his reactions upon the death of his wife, Joy Davidman. They had married secretly in 1956, in a civil ceremony, and then in a church ceremony at her hospital bed, a year later. There was a remission in her cancer, for a time, but she died in 1960. The short book was originally published a year after that under the pseudonym, N. W. Clerk. My wife Patt tells me that the book is an amazing chronicle of the immediate stages of grief. Thankfully, I cannot say. It is, however, a vivid theological questioning. For someone like Lewis, the attentiveness to his own grief was only a part of the story. He writes very early, "Meanwhile, where is God?" Lewis does not come up with anything simple, one way or another. In fact, some of his images are shattering. Perhaps, in God's view, Lewis and his wife were just done with this stage—"well done, next job". He does not assume that the dead are beyond caring and grieving themselves. He has no patience for those who say death doesn't matter or that we will all be reunited, as if eternity were the same as this life, which is the loss he is mourning. Some time later, Lewis has an impression of his wife's presence. He writes that this is not "evidence" of anything. Not a body or a soul—"Just the impression of her mind momentarily facing my own." An extreme and cheerful intimacy. The experience was so unexpected in its quality, that Lewis felt he could not have come up with it on his own. Still, not evidence. But that is the connection of this book to the issue of religious training. The courage and depth of the book, as well as its discipline, and its surprises, all come from Lewis' having a deep place to stand. We need a perspective from which to approach the important experiences of life, to understand what they are, and what they show and teach us. Religion is one of those things that gives such a deep place. There are not many. After religious teachings are outgrown, if they ever are, its categories and vocabulary are still available. Lewis' experience with grief and with his sense of the presence of his wife, can be engaged and communicated only because Lewis has words and concepts to at least begin to think about what has happened to him. Lewis doesn't repeat any religious orthodoxies. I am not talking about comfort. I am more talking about mathematics as necessary for the scientist. If physics required a new mathematics, that new math could only be supplied by one familiar with the old. Just so it is with religion. We should assume that the ancients experienced something like what we experience. Their accounts will therefore help us understand our lives. That is why even secularists should train their children in Our Religions.

Title: Church-State Talk to Pittsburgh ACLU

Date: 2008-05-08T08:08:00.002-04:00

5/8/2008--After my talk last night to the Pittsburgh chapter of the ACLU in the North Hills, I was asked to post my notes on this blog. I will do so here, but you must understand that these are just notes.

ACLU Presentation
May 7, 2008

1. What does the Declaration of Independence mean when it says:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights...?

2. According to the Declaration, it is a self-evident truth that our rights are not gifts from men, but are woven into the structure of the universe. That is what “endowed by their Creator” means. If we are to survive as the kind of people that we are, it cannot be unconstitutional to read that statement to a high school class. It cannot be unconstitutional to read it and mean it. The use of the word “Creator” cannot alter that conclusion.

3. I am engaged in a multi-year, 3 book, 2 article, one blog project, with the support of the law school and Duquesne University—on the subject of church and state. Rather, the subject is religion and public life in our democracy. The project includes politics, theology and law. The purpose of the project is to change the relationship in America between secularism and religion.

4. This is my prediction and hope: that political life in America will allow full expression of religious faith, along with its opposite; that secular life, especially among the young, will become more open to transcendence—to depth—in both social and personal matters, and thus less hostile to religion and believers; and that law, in particular constitutional law, will aid rather than impede these changes.

5. The origin of my project was both personal and partisan. The partisan part is that I am a Democrat. The result of the 2004 election struck me very hard. And that was followed by the Terri Schiavo struggle after the 2004 election in March 2005. The Democratic Party was on the wrong side of a historic change—religion in politics could no longer be resisted.

6. The personal part was my journey to secularism, away from organized religion—Judaism in my case and my realization that this change in my life reflected a change in general in American life, especially among young people, such as my own children.

7. The first part of my project came to fruition in the book, *American Religious Democracy: Coming to Terms with the End of Secular Politics*. The book argues that American political life is religiously infused and that there is nothing wrong with this. It is in fact, at least for America, and maybe for everybody, a better form of politics than the kind of politics suggested by Mark Lilla—*The Stillborn God*--and other voices for a secular politics. That secular vision, I argue, is stilted, individualistic, materialist, naïve and unsustainable.

8. The goal of a secular politics must be regarded as ended with the 2004 Presidential election. There are other signs of this ending. Romney Faith in America Address. The 2d Faith and Morality “debate”—this time between Senators Obama and Clinton. plus the whole 2008 Democratic Party Presidential nomination campaign.

9. This change makes me happy. There is a partisan advantage to the Democrats. It also signifies real free speech and a more open political life. There is no cost in constitutional values because it is not theocracy—contra Kevin Phillips.

10. So, all the predictions in my book came true.

11. But as the book was coming into print, in fall 2006-spring 2007, something else was happening. There was enormous growth in secularism, especially among the young, seemingly overnight—though it had actually been growing.

12. This campaign has involved a number of best-selling books, including, *The End of Faith* and *Letter to a Christian Nation* by Sam Harris,[1] *Breaking the Spell* by Daniel Dennett,[2] *The God Delusion* by Richard Dawkins,[3] *God, the Failed Hypothesis* by Victor Stenger,[4] and the hugely successful *God Is Not Great* by Christopher Hitchens.[5] *WIRED* magazine called this movement “The New Atheism” in its November 2006 cover story and it is a fair description of newly energized atheism.

13. Statistics—The PEW Forum Report in late February: “the Report did include General Social Survey data from 1972-2006 that asked “What is your religious preference? Is it Protestant, Catholic, Jewish, some other religion, or no religion?” That answer showed the “no religion” group growing from around 5% of the population in 1972 to around 16% in 2006. In the PEW Report itself, the current unaffiliated number is 16% but among persons 18-29, the number is 25%.”

14. None of this really was new. Secularism had been growing. My experience is representative. I became a secularist. This comes as something of a surprise to people given that I argue in favor of religion. And I argued in *American Religious Democracy* that my fellow secularists should be open to the depth of religious language and values in public life.

15. But there was now a new urgency for me in addressing secularism. I didn't and don't like what the New Secularists are preaching: an anti-religious atheism. This is not healthy and sustainable human life. Nor is it what young secularists are actually looking for. In that same PEW study, “The second important finding concerns the relationship of this unaffiliated group to religion. The percentage of atheists is small and not growing very much. Atheists are 2% of Americans and even among younger people, only 3%. Some of the unaffiliateds describe themselves as agnostic. But by far the most—3/4's-- of the unaffiliated call themselves “secular” or “religious” unaffiliated. As the *New York Times* story put it, “The rise of the unaffiliated...does not mean that Americans are becoming less religious.” In fact, given the unwillingness of the vast majority of unaffiliated people to call themselves atheists or agnostics, it would seem that these are people looking for religion—just not looking in the usual places.”

16. In the last year, I wrote a new book in response to all this: *Hallowed Secularism: A Guide for the Non-Believer* though I don't have a publisher yet. The thesis of the book is that by the year 2100, or a little later, the world will be primarily secular. The question the book raises is, what kind of secularism is this going to be? The proposal the book makes is that secularism is not an opponent but should open to the wisdom of Our Religions in order to create a healthy and sustainable world-wide civilization.

17. And what is this wisdom that secularism should be open to? Secularism is simply the insistence that this world is all there is to reality. No heaven, no afterlife, no Messiah. No traditional God—that is, no being outside time and space who can affect the natural world.

18. But, while this understanding of secularism rules out a lot of the Judeo-Christian tradition, it does rule out everything. I am not referring here to ethics, but rather to transcendent reality—to the sense that there is more to life than what we can touch. And that transcendent reality is real, in the sense that history may be its unfolding. As I put it in the Introduction to *Hallowed Secularism*—“ Even without Our Religions, human beings can encounter a mysterious otherness, both personally and historically. An otherness upon which we can build our lives and a civilization.” Religion, you might say, without the doctrines and dogmas of Our Religions.

19. So the claim of *Hallowed Secularism* is that some things in what Our Religions teach are actually true. Rather than opposing religion, secularism needs to discover that something or secular civilization will be a source of despair for humanity.

20. The book attempts to flesh out what all this means and a way of life that might be open to a *Hallowed Secularism* in the future.

21. In addition to the manuscript, I began a blog—Hallowedsecularism.org—on the theory that eventually a community of secular people must come together for serious consideration of the future of secularism when it defines itself beyond simple opposition to religion. Blocks of the book are on the blog and I hope you will look at it.

22. But there is a current impediment to the establishment of a civilization of *Hallowed Secularism*. American constitutional law still is in the throes of the establishment of a secular public life. The legal regime of Government neutrality toward religion, announced in *Everson v. Board of Education* in 1947, is still alive although it is on life support. This is the Lemon test (*Lemon v. Kurtzman* (1971)—invalidating state supplements for teachers of secular subjects in private schools): government action touching on religion must have a secular purpose, a primarily secular effect and must not excessively entangle itself with religion.

23. This legal secularism, as Noah Feldman calls it, is on its way out, which of course I think is good. I don't agree, however, with what Justice Antonin Scalia and others may be envisioning for its replacement. They want to replace a secular regime with the worship of a monotheistic God. In *McCreary County v ACLU* (2005), one of the two Ten Commandments Cases, (the one striking down the Ten Commandments in a courthouse, while *Van Orden v Perry* allowed them on the Texas capital grounds) Justice Scalia pointed to history in acknowledging a creator God—monotheism.

He then acknowledged the other side of that: "Finally, I must respond to Justice STEVENS' assertion that I would “marginaliz [e] the belief systems of more than 7 million Americans” who adhere to religions that are not monotheistic. [Van Orden, 545 U.S., at ---- - ----, 125 S.Ct., at 2881, n. 18, 2005 WL 1500276, at *20](#) (dissenting opinion). Surely that is a gross exaggeration. The beliefs of those citizens are entirely protected by the Free Exercise Clause, and by those aspects of the Establishment Clause that do not relate to government acknowledgment of the Creator. Invocation of God despite their beliefs is permitted not because nonmonotheistic religions cease to be religions recognized by the Religion Clauses of the First *900 Amendment, but because governmental invocation of God is not an establishment. Justice STEVENS fails to recognize that in the context of public acknowledgments of God there are legitimate competing interests: On the one hand, the interest of that minority in not feeling “ excluded”; but on the other, the interest of the overwhelming majority of religious believers in being able to give God thanks and supplication as a people, and with respect to our national endeavors. Our national tradition has resolved that conflict in favor of the majority."

24. I don't want to see this kind of exclusion and us-them thinking replace the current secular regime. This creator God is not as representative of the American people as Justice Scalia thinks. It is reflective of Justice Scalia and his generation. And of course his history is bunk, since it endorses not a general monotheism, but a particular Protestantism, which Justice Scalia would never admit.

So I am now writing a correction to Justice Scalia that still invites public engagement with religion, but does so on a basis much more inclusive than his narrow reading of history. My book is to be called “For the Establishment of Religion” and it will argue for the principle that government may, indeed cannot help, but take a position on the question of religion and irreligion. There are three basic competing philosophies of reality in the West—religious orientation, humanism and materialism. Government is no more required to be neutral about that array than it is to be neutral about representative government and fundamental rights, which are a part of competing worldviews across the globe. Nor must parents of public school students and school boards be neutral about whether public school students become religious, humanist or materialist. I am not speaking here about censorship of other views, but about endorsement of religion in the schools.

25. What is this “religion” that is reflected in no particular religion but all of them. I am working on that. But let me start with the following: human rights are not created by men and woman, nor is their recognition to be decided by recourse to natural forces. They are endowed, although there is no Creator God to endow them.

Here is another example of recourse to religion. In her book, *Liberty of Conscience*, in which Martha Nussbaum defends more or less, religious neutrality, she writes of human conscience that conscience “is the faculty in human beings with which they search for life’s ultimate meaning.” Who is to say that life has an ultimate meaning—religious worldview.

Conversely who is to say that if there is such, we “search” for it? Humanism.

Why isn’t conscience the simple result of evolutionary pressure, of no lasting ethical value? That would be materialism.

You see, you cannot be neutral about these differing understandings of reality.

I would say that conscience is the faculty by which reality’s ultimate purpose imposes itself on us—a genuinely religious view [which I think is closer to the truth of things].

Here is an example of a religiously oriented openness to religion. Let’s say the people in a secular country want to affirm that reality has meaning and history has a pattern, and that these are in some sense binding on us, they might say that their country is “under God” even though they don’t believe in a traditional God. But, on the other hand, if the same secular people wrote a Pledge of Allegiance that simply stated that reality has meaning and that history has a shape and that we are judged by how closely we follow that meaning and shape, that text would probably not even raise an issue of church and state, even though God and this formulation could be thought of as the same thing.

The term under God is constitutional because it is an affirmation about the nature of the universe. And that affirmation, although not uncontroversial is not religious in a narrow sense. It is something that any culture open to the holy must affirm.

26. I would like to see women and men resistant to the pressures of consumption and militarism, the two dominant powers of the modern world, join in a culture that is open to the power of justice and gentleness in human affairs. Religion understood very broadly will have to play a role in such a culture even among secularists like myself.

[1] *The End of Faith: Religion, Terror and the Future of Reason* (W.W. Norton and Co. 2005); *Letter to a Christian Nation* (Knopf 2006).

[2] Breaking the Spell: Religion as a Natural Phenomenon (Allen Lane 2006).

[3] The God Delusion (Houghton Mifflin Co., 2006)

[4] God, the Failed Hypothesis: How Science Shows that God Does Not Exist (Prometheus Books 2007)

[5] God is not Great: How Religion Poisons Everything (Hachette Book Group 2007)

Title: When Bad Theology Happens to Good People

Date: 2008-05-11T17:48:00.002-04:00

5/11/2008--I am reminded of the difference between religion of depth and its opposite in comparing C.S. Lewis with Rabbi Harold Kushner, the author of "When Bad Things Happen to Good People", who is speaking in Pittsburgh this week. According to a story in the Jewish Chronicle, Rabbi Kushner is speaking on his book, "How Good Do We Have to Be? A New Understanding of Guilt and Forgiveness". For the Rabbi, his answer to this question represents a rejection of the Christian dogma of Original Sin. Rabbi Kushner is not rejecting the doctrine rejected by many Christian theologians that we are literally punished for the sin of Adam and Eve. He is rejecting the different formulation that the sin of Adam and Eve is forever recapitulated as human beings always choose disobedience to God's will for us. Rabbi Kushner believes that this idea—that men and women are genuinely evil at heart—is a harmful Christian doctrine because it causes people to regard themselves as bad just because they are not perfect. Now I think Kushner is doing therapy here and not theology and certainly not Jewish versus Christian theology. God tells Abraham in Genesis 17:1: "walk before me and be perfect". Even though the Hebrew is probably better translated as blameless or even whole, the point is not so different. Whatever it is that Abraham was to be, you and I are not. Kushner wants us to feel good about ourselves. But why should we? Kushner seems to me to be pushing what Dietrich Bonhoeffer called cheap grace. I know myself to be an enemy of God. The complacency Kushner accepts leads to a bourgeois world in which the inviolability of our lifestyles is taken as a given, despite its cost to the rest of the world. Compare this to C.S. Lewis in his lectures about God, entitled, Beyond Personality. For Lewis, the point of "belief" in Christ is to allow God to remake us into something we are not, yet. We are to be made into human beings for the first time. Everything is to be taken from us. Everything is on loan from God. We will truly live for the first time. This is not just Christian thinking. The people of Israel were not just to be okay, just not to hurt anyone in an obvious way, just to be nice. They were to be a Kingdom of Priests and a holy nation. Ex. 19:6. Israel was not that, and paid the price in national disaster. God is not easy to please, apparently. Much harder to please than Rabbi Kushner.

Title: The Future of Secularism

Date: 2008-05-13T06:27:00.002-04:00

5/13/2008--I saw the future of secularism without religious influence last night and it was not pretty. My local community group, in a community 56% African-American, selecting half of its board, elected seven whites in a takeover by the more affluent portion of the neighborhood. The history of this action began when the existing Board did not, in the opinion of many of my white neighbors, oppose sufficiently the efforts of the Salvation Army to expand its services a few blocks away. The fear of the homeless originally motivated this effort. It's not that the people involved are evil or that the prior group running the organization had done such a good job in the past. It's that, when I looked around the hall last night, I noted the complete absence of the Church. This important institution in the black community was not there. Nor were the progressive voices of the religious left. In the absence of this restraint and source of hope, what are people left with? Fear of the other. Self-interest. Greed. Materialism. So, this new slate did not even feel it symbolically necessary to include more than one woman or any blacks. At least it did include gays. Where there is no vision, the people perish. It's hard to have vision in a secular world.

Title: David Brooks--The Neural Buddhists

Date: 2008-05-15T09:22:00.001-04:00

5/15/2008--Everyone interested in the thrust of this blog—and my book—should take a look at New York Times columnist David Brooks' column of May 13, entitled The Neural Buddhists. Brooks is criticizing hard-wired materialism and suggesting that its day is done. The new neural science undoes hard materialism because “meaning, belief and consciousness” cannot be reproduced by any physical arrangement. We are more than the sum of our parts. This suggests that the self is not fixed, that people have common moral intuitions, that we are equipped to experience the sacred and that God is best understood as the unknowable total of all there is. Readers of this blog have seen all this. Brooks should not use the term “neural Buddhists” but hallowed secularism. Anyone with romantic delusions about actual Buddhism should take a look at Nikolai Grozni's book, The Making and Unmaking of a Buddhist Monk. I'm not criticizing Brooks. He is using Buddhism as a symbol of the dissolving self. Brooks is also misled by his Buddhism image to ignore history. Religion does not teach us primarily about internal reality but external reality. Religion is about social organization and justice. As a conservative, perhaps Brooks wants religion to stay home, so to speak, but it will not. The main point in all this is that science is simply true for what it does. Insofar as religion contradicts the laws of nature, it cannot be true. On the other hand, there is more to reality than any simple account suggests. All we know of religion and believers is somehow true as well.

Title: C.S. Lewis and Hallowed Secularism

Date: 2008-05-18T07:38:00.002-04:00

5/18/2008--I am reading C.S. Lewis, although not in honor of the new Narnia movie. Lewis is the great Christian popularizer. He was trying to reconnect dull Christian, and newer post-Christian, readers with the power of the Christian tradition. He illustrates both the strength and impossibility of that tradition for secularists. For the strength, one need only look at the great speech by the physicist Weston in the first book of the Planet trilogy--Out of the Silent Planet. The materialist and humanist traditions that this character symbolizes are quite willing to destroy the life forms of an entire planet in order to allow humans to populate the solar system. It is an anti-imperialism moment in the book, but Lewis means more than that. Humans on their own are incapable of living in peace with others or with themselves. We cannot trust the universe to provide our needs, nor accept any limits on our growth. The Weston speech is reminiscent of Daniel Quinn's book *Ishmael*, which makes this same point about surplus agricultural life. Quinn is making a kind of anthropological argument while Lewis is speaking theologically. Here is the root of global warming and the culture of denial. It cannot be true that there are to be limits on us. (No doubt some readers are asking themselves how religion can be of help when this engulfing civilization that has created the crisis is Christian at its origin and still Christian in many ways. Lewis would scoff at the notion that America is Christian in any meaningful sense. And if you read his orthodoxy, you will not recognize much of American Christianity). But for the weakness, you need only look at Lewis' attempt to re-tell and update the Fall of humanity in the second book of the Planet trilogy—Perelandra. As made literal, the story is boring, ridiculous and irrelevant. The book makes you happy that Eve ate the fruit. And it reminds you why you are a secularist.

Title: For the Establishment of Religion

Date: 2008-05-21T17:07:00.002-04:00

5/21/2008--Now that grading exams is finished, I am turning my attention to the third book in my planned trilogy concerning the role of religion in American life. In the first book, *American Religious Democracy*, published last year, I argued that American political life is not secular, had no obligation to be secular, and could not be secular and still be good and healthy politics. Of course, the 2008 campaign turned out to render the book not just largely true but almost a cliché. At the end of that book, I suggested that secularists should take another look at religion.

The second book, *Hallowed Secularism: A Guide for the Non-Believer*, picked up the argument at that point and tried to imagine a genuinely religious secularism. Now that Palgrave Macmillan has decided to publish that book, I hope that secularism will begin to have an internal debate about its relationship to religion. I hope that cheap anti-religious tirades will recede and the fundamental questions about human life and hope will come to dominate secular thinking.

But such a fundamental change cannot happen without a change in that bastion of secularism: American constitutional law. American law freed itself from religion almost from the start. And the secular state always had more support in law than almost anywhere else in American life. So this third book, *For the Establishment of Religion*, argues that the Establishment Clause of the First Amendment should be interpreted to allow government endorsement of religion, just not any particular religion. The following is from the Introduction:

“Proposals like mine, to endorse religion in a general sense, have been made before. The position is sometimes called non-preferentialism. It asserts that the government is permitted to aid religion in general, or to aid all religions, as long as the government does not discriminate among religious groups. As we shall see, then—Justice Rehnquist proposed this sort of understanding of the Establishment Clause in his dissent in *Wallace v. Jaffree*.

One difference in this presentation in this book is that I am arguing this not as a religious believer, but as a secularist. What is at stake in the struggle over religion in American public life is not the future of religion, but the future of secularism, both in America and ultimately in the world. My thesis is that secularism needs to be open to religion if it is to be healthy—if it is to confront and oppose debilitating consumption and technology. I don't see how such openness is possible in a world that seeks to strictly separate church and state.”

For political reasons, the United States Supreme Court is already moving in the direction of allowing more public expression of religion than earlier cases had done. But there has not yet been any explanation by the Justices as to why that should be, beyond a rather false invocation of the history of the founders. My book says that history cannot resolve the question of the proper role of religion. It is something we must resolve on our own, as citizens.

Religion as a general phenomenon is a kind of worldview, with apologies for the use of that word. Religion is a way of encountering reality. And religion as a worldview can be compared to other worldviews, such as materialism and humanism and even nihilism. Public policy cannot be, has never been and should not be, neutral with regard to these possible viewpoints. In particular, school boards should be extremely concerned about what the curriculum communicates about humankind's traditional questions—who are we, why are we here and what can we hope for? It used to be thought that the purpose of education was equip students to think deeply about such questions. I think religion, broadly conceived, brings us closer to true answers to those questions. Yes, I am a secularist. I don't believe in God. But that is a beginning point, not an end point. Secularism needs to acknowledge the contribution religion can make to the consideration of such questions. It is in that sense that I speak of the establishment of religion.

Title: Christianity as Counter-Cultural

Date: 2008-05-22T18:49:00.002-04:00

5/22/2008--There was a strange comment reported by the Catholic News Agency today. Here is the opening paragraph of the story: "Oakland, May 22, 2008 / 02:08 am (CNA).- In a pastoral letter responding to the California Supreme Court's decision to legalize same-sex marriage, Bishop of Oakland Allen Vigneron said that Catholics must respond to this "profoundly significant" issue by bringing a proper understanding of marriage into public life. The failure to do so, he said, would result in a difficult situation where Christianity becomes a counter-cultural way of life." The question is, when has genuine Christianity not been "counter-cultural"? How could a Catholic Bishop imagine a world in which Christianity was anything else? Jesus was executed after all because he was, profoundly, counter-cultural. If you listen closely, you hear in this comment the throbbing of the imperial Church in charge of Western Christendom. But that world plainly does not exist today. Today, Christianity should not seek to impose its rules against gay marriage on non-believers. This is especially so, since these non-believers simply want to love each other in their own way. Though this way is sinful to the believer, the matter is plainly nothing like abortion or other life and death issues. Gay marriage is a perfect example of an issue, like divorce, in which the believer should try to convert, but should not seek to use the coercive power of the State to impose Christian doctrine. There is supposed to be some difference between the Church and the secular world. Not every sin should violate the State's law.

5/27/2008--In the June 12, 2008 issue of the New York Review of Books, Freeman Dyson reminds us of the danger of religion when it addresses less than the ultimate—the danger of religion as idolatry. Dyson is Emeritus Professor of Physics at the Institute for Advanced Study at Princeton. In the magazine, he is discussing books that suggest things that can be done about global warming that fall short of world-wide, revolutionary change: for example, enhanced carbon eating trees. Dyson believes such solutions are possible, but his deeper point is that environmentalists cannot believe this, do not permit themselves to even think about such things: "All the books that I have seen about the science and economics of global warming, including the two books under review, miss the main point. The main point is religious rather than scientific. There is a worldwide secular religion which we may call environmentalism, holding that we are stewards of the earth, that despoiling the planet with waste products of our luxurious living is a sin, and that the path of righteousness is to live as frugally as possible. The ethics of environmentalism are being taught to children in kindergartens, schools, and colleges all over the world. Environmentalism has replaced socialism as the leading secular religion. And the ethics of environmentalism are fundamentally sound. Scientists and economists can agree with Buddhist monks and Christian activists that ruthless destruction of natural habitats is evil and careful preservation of birds and butterflies is good. The worldwide community of environmentalists—most of whom are not scientists—holds the moral high ground, and is guiding human societies toward a hopeful future. Environmentalism, as a religion of hope and respect for nature, is here to stay. This is a religion that we can all share, whether or not we believe that global warming is harmful."But, Dyson says, this religion has its faith claims, like all religions, and these claims prevent us from rationally addressing our environmental problems. Whatever you may think of carbon-eating trees, secularism is certainly prey to this sort of idol worship. This is what the New Atheists do not understand. Societies will have religion. If those religions worship less than the ultimate--whether it is nationalism or consumerism or whatever—the results are destructive. Hallowed Secularism is an attempt to recognize this and to address it. It aims to reintroduce the ultimate, as secularism understands it.

Title: Austin Dacey: The Secular Conscience

Date: 2008-05-29T08:42:00.001-04:00

5/29/2008--Austin Dacey, Executive Editor of the philosophy journal *Philo* and staff member at the Center for Inquiry, has written a very important book: *The Secular Conscience* (Prometheus 2008). Dacey argues in this book against the privatization of values in secularism. He argues a rather traditional objective approach to values. Thus, abortion, for example, is not simply a private matter, but a social policy to be defended or challenged on publicly stated grounds.

Dacey's book has been praised by people such as Richard John Neuhaus, who disagree with him on almost all issues, because Dacey recognizes that morality is not mere opinion. *The Secular Conscience* was discussed last week by Peter Steinfels in a *New York Times* column. I wrote a letter to the editor concerning that column, which I share below.

The importance of Dacey's book is that it may begin a controversy within secularism. This blog and my book, *Hallowed Secularism*, argue that secularism cannot go on as it has been understood. Dacey agrees with that. I argue that only religious sources can deepen secularism and render it a sustainable and healthy human alternative. Dacey strongly disagrees with that. He adopts the same kind of juvenile tone about religion that the rest of the New Atheists do, but beneath that sneering, he understands that he must create and defend a non-religious objective morality.

Whether he succeeds or not, secularism is not likely to be the same. Dacey may succeed in breaking the logjam in secularism that will create room for consideration of *Hallowed Secularism*.

The reason I don't think he can succeed is that Dacey wants to maintain a very narrow naturalism as the foundation of human life. I don't think meaning ultimately resides there. His praise for Confucianism, for example, which he calls a "humanistic ethical philosophy" omits that all Confucian judgments are rendered under "heaven". I am not competent to say what heaven is exactly in Confucian thought, but it is not simply a human ethical category. Yet, I have a feeling that when the sneering at religion is over, Dacey and I may be quite close in our understanding of reality.

Here is the letter:

Peter Steinfels' column discussing Austin Dacey's new book, *The Secular Conscience*, misses the key consequence of Dacey's insistence that standards of right and wrong are objective. Dacey believes that secularism must discard moral relativism, which is a stance with which many agree. But Dacey also believes that this can be done without embracing a religious worldview. He is probably wrong about that. Secularists invented both existentialism and pragmatism in order to avoid the very claim that Dacey is now making, that values are objective. They knew better than Dacey that conceding this point will eventually destroy a certain kind of secularism and will usher in instead a secularism infused with traditional religious values. In his *Riddell Lectures* published as *The Abolition of Man*, C.S. Lewis called the doctrine of objective value "the Tao" because all traditional value systems have shared this viewpoint. Lewis was contrasting "the Tao" with the very forms of anti-religious secularism Dacey thinks he is defending. Dacey's book may mark the beginning of the end of the secular/religious split that has so marked our politics. This will be a great achievement that Dacey will not be pleased to have accomplished.

Title: Austin Dacey on Islam

Date: 2008-06-02T23:29:00.002-04:00

6/2/2008--Austin Dacey's book, *The Secular Conscience*, demonstrates why Hallowed Secularism is so necessary. He writes, "Islamism is the new totalitarianism and it demands a new liberalism that places global resistance to theocratic Islam at the center of its agenda." (195).

This is fine and good if he means suicide bombers, although this language would then be a little over the top. How are even the attacks of 9/11 an existential threat to the West? Al Qaeda is a small group of terrorists, after all.

Dacey means Islam itself is the enemy, unless Islam is willing to be tamed. Unless Islam is willing to become a private religion with no pretention to provide guidance to public life. As, Dacey sincerely hopes, Christianity and Judaism have been tamed.

Dacey quotes with strong approval the Declaration issued by the first Secular Islam Summit in 2007: "We say to Muslim believers: there is a noble future for Islam as a personal faith, not a political doctrine." (192).

Tell that to Martin Luther King, whose Christian faith somehow did not remain a mere "personal faith," but set fire to a people and through them to a nation. It isn't only Islam that is Dacey's enemy but any religion that purports to express God's will for a society.

And the odd thing is that Dacey's truth claims are the same of those of any believer, as he would willingly admit. Dacey claims that truth can only be arrived at through freedom of conscience, speech, the press and democracy. Dacey does not rest on the separation of church and state. He wants to be able to criticize religion in the public square. Dacey says the believer is quite welcome to participate.

Islam is not a different kind of thing that must be opposed. If the people of Iraq choose to embed Shari'a in their Constitution, and if channels to amend that Constitution remain open, where is the harm? Why is that not democracy? Certainly I would prefer a society that does not have a death penalty, but can I insist on that against the expression of democratic will? If women vote for this Constitution in overwhelming numbers, are these women to be forced to be free? By whose order?

In the name of resistance to Islam, we are already committing injustice in the United States. Debbie Almontaser is removed from the office of principal of an arabic culture public school in New York City (see post of 5/2/2008). Dr. Moniem El-Ganayni, a naturalized American citizen born in Egypt, is stripped of his security clearance and barred from continuing to work at Bechtel Bettis, Inc., on the basis of secret claims that the Government refuses to discuss, thus denying even the rudiments of due process. (See post of 2/4/2008 and the Pittsburgh Post-Gazette of 6/1/2008). We are becoming the very kind of closed society that Dacey claims to oppose. That is what happens when you define your enemy in religious terms.

Hallowed Secularism does not see religion as an enemy. Nor does it see the public expression of religion as a negative. Its understanding of democracy is genuinely open, not like the secular script of Austin Dacey.

Title: Liberal Religion and Hallowed Secularism

Date: 2008-06-05T15:34:00.000-04:00

6/5/2008--I received another piece of criticism yesterday concerning Hallowed Secularism and my understanding of Christian theology as that of an "absolute and wholly transcendent God acting in the world." In other words, I left Judaism because I did not believe in such a God and I write as if that belief is central to the biblical tradition. But, I am being told, there are many Jews and Christians—and presumably Muslims as well—who do not believe in such a God concept, but who stay within these religious traditions by reinterpretation of this traditional image of God. My work for Hallowed Secularism, therefore, seems to side with conservatives in these religions who are forever asking the liberals to either toe the theological line or leave.

At first, this challenge to Hallowed Secularism amazed me. Obviously I was not criticizing people for staying "inside". After all, I had been inside Judaism all my life and leaving was no easy matter. I am happy for people who can stay. I left Judaism only because I had to. I just couldn't keep doing the translating anymore from traditional image to something else. Anyway, the people I am trying to reach are not in the churches and synagogues and have no interest in such places. I did not think of myself as criticizing liberal religion.

But now that this has happened on several occasions, I must take the matter more seriously. Clearly, if something like Hallowed Secularism were possible, some of these religious liberals would leave their religious traditions. They stay now because leaving seems to cut them off altogether from the biblical tradition. If leaving the church did not necessarily have that effect, as Hallowed Secularism seems to suggest, such people might leave.

So, I now have to take responsibility for this unintended possibility. I therefore turned to my teacher in the biblical tradition: C.S. Lewis, for his view on this matter. Lewis says, not surprisingly, that Christianity (and the same might be said in Judaism, but not so clearly) is "precisely the story of one grand miracle." (God in the Dock, page 80). Take away the miraculous and there is nothing left beyond moralisms that everyone would agree with. And if you reject the kind of God who can perform miracles in principle, you should not call yourself a Christian.

Just to be clear about this, Lewis considered some of the Bible to be what he called "fabulous", as in fairy tales to teach lessons. Noah's Ark was like that for Lewis, for example. But Lewis emphasized what such a view did not imply—"we believe...in a spirit-world which can, and does, invade the natural or phenomenal universe." (69).

Lewis also recognized that some of the Biblical writers may have thought of a three tiered universe that a modern mind is bound to reject (as I think either Marcus Borg or John Dominic Crossan emphasizes). But for Lewis, this is detail, not essence. Any language about the "crucified Master [who is] now the supreme Agent of the unimaginable Power on whom the whole universe depends" will be open to the same objection as that of heaven being "up". "Enters" is no better than "comes down" and "re-absorbed" no better than "ascended". Our language doesn't work here very well.

After reading Lewis, I feel more at peace. Lewis would disagree with my decision to leave the religious institutions. He would tell me to worship by means of myth if that is all I can do, (page 67)--to treat God as poetry or theater if that is as close as I can get. But Lewis would tell me not to water down the essential religious message and pretend I had made no change in it. That is what I think some of my critics are doing.

Title: Michael Hampson: God Without God

Date: 2008-06-07T16:38:00.001-04:00

6/7/2008-- Just out and excerpted in May/June Tikkun magazine is Michael Hampson's book, God Without God: Western Spirituality Without the Wrathful King. I have not read the book yet, but it seems to follow the path begun by John Shelby Spong. Hampson is himself a former Anglican Priest. Hampson seems to be taking progressive Christianity as far as it can go, and maybe further, without leaving Christianity altogether. He writes that he accepts the atheist case against the God of presumptive monotheism. Oddly, Hampson does not give Christianity enough credit and yet still seems to want to remain a part of it. The atheist case is not just against this wrathful King, but any King, or any creator, or any organizing intelligence. Christianity does not worship a wrathful King and never did. The atheist case is more serious than doing away with Hampson's straw man God. On the other hand, if there is no supernatural realm, why continue in the specifically Christian tradition? That is to say, why isn't Hampson another Hallowed Secularist? I hope to have the chance to ask him that some time.

Title: More on Michael Hampson

Date: 2008-06-09T16:52:00.002-04:00

6/9/2008--Michael Hampson responded to my last posting, which as he wrote, is testament to Google Alerts. I love this instant quality. Hampson responds as a good author should. He writes, "Get the book". As a fellow author, I appreciate a man with his eye on the ball. The full title of the book is, *God Without God: Western Spirituality Without the Wrathful King*. The excerpt in *Tikkun* magazine did not make clear that the God of presumptive monotheism is not just the wrathful king, but any manifestation of human qualities, such as personhood and will. Hampson clarifies that in his blog response. The book's subtitle is a little misleading. Now it is true that all Christian theologians, not to mention Jewish and Muslim, have always cautioned that human attributes are not applicable to God. Aquinas wrote, for example, that it is false to claim that God exists. God does not "will" in the sense that human beings do. To this extent, Hampson is orthodox. But as C.S. Lewis said, the claim that God is Beyond Personality (the title of Lewis' book of 1945) must mean that God is more than personality, not less. Not impersonal. God is not will, but more than will. God does not exist in the sense we do because God really does exist and we are mere shadows. And so forth. Thus, to move from human attributes to "mystery," as Hampson does, is at once faithful to the tradition and quite potentially inconsistent with it at the same time. The heart of the Christian message is, as the nutty people show on their signs at sporting events, John 3:16: "For God so loved the world that he gave his only Son." This is certainly a mystery from the Christian perspective, but it is also an intelligible action. In that sense, it is quite human-like. Hampson and I may be close to agreement on a lot of this. I have to read his book and he has to read mine. (He could begin right now with the manuscript if there were some way to get it to him). The difference is that I felt I had to leave the biblical religious tradition, while he feels free to stay. Hampson says one other very important thing. The problem with progressive religion of most kinds is that its proponents cross out the tenets of the faith one by one. Hampson wants to proceed by going deeper into the heart of faith. This is clearly right. Whatever religion promises, it promises total engagement. The alpha and omega. Religion can never be less. It must show us that the lives we currently live are less.

Title: The New Face of Islam

Date: 2008-06-12T10:37:00.001-04:00

6/12/2008--Newsweek Magazine reported in its June 9, 2008 issue on "The New Face of Islam". The story states that there is a change within Islam regarding Osama bin Laden's vision of permissible acts in the name of Jihad: "Important Muslim thinkers, including some on whom bin Laden depended for support, have rejected his vision of jihad. In addition, and somewhat separate, new work by Muslim thinkers, especially in Turkey, are reexamining tenets of Islam with an eye to reopening interpretation. Is there anything here really new? Probably not. American media love to pronounce trends, even if there are no trends. This is especially true when the "trend" announces what the American audience wants to hear. But it is still good to see aspects of Islam emphasized that we don't often read about. The article refers to three changes. First, there is opposition to Al Qaeda's interpretation of what is permissible under Islam. The story referred to a year old open letter by Saudi scholar, Sheik Salman al-Oudah, whom bin Laden had praised, that asked bin Laden "Brother Osama, how much blood has been spilt? How many innocents among children, elderly, the weak, and women have been killed...in the name of Al Qaeda?" And there have been strong criticisms of indiscriminate killing by Sayyid Iman al-Sharif, who is considered a jihadist himself. The second change is a kind of reforming interpretation within Islam. Most significant is a coming new edition of the Hadith, the sayings of the Prophet Muhammad, being published by Turkish Muslim thinkers. The point is to contextualize the sayings. Although the authors say they are not reformers in the Protestant mold, the implications of the work can be striking. One example given in the story is about the Hadith forbidding women from travelling alone. In context, say the authors, this was not a religious command at all, but a safety precaution that could presumably be changed when conditions permitted. The authors read Islam against a background of democracy and human rights. The third change was just hinted at. It concerns mullah Mohsen Kadivar of Iran, who has been criticizing, in Iran, the Iranian system of clerical control of government policy. This both suggests support for his views among ordinary people and a willingness by the regime to allow dissenting views some access to the public.

Title: Senator Obama's Prayer Group

Date: 2008-06-14T06:47:00.001-04:00

6/14/2008--Newsweek's June 9 edition also contained a strange story about daily prayer calls organized by the campaign of Senator Obama. ("His Mobile Ministry"). Every Friday morning, and also on special occasions, anywhere from a few to 100 clergy link up telephonically to pray for Senator Obama—not to win elections, they say, but for discernment. No one is against prayer and if God is as important to Obama as he has said, he would certainly appreciate prayers. But this sort of thing suggests that the anti-religious secularists have a point. Who needs a suggestion that a politician is close to God? No politician is. The group did pray especially before big primaries, as if this were a sports team praying before a game. So you have the usual corruption of politics when religion gets too close. Second, you have the corruption of religion. Do these same ministers criticize Obama or are they on his "team"? If Senator Obama wants prayer help, why not follow Jesus' advice and have them pray in secret?

Title: Religion and the Public Square

Date: 2008-06-18T08:10:00.002-04:00

6/18/2008--I am now writing the third book in the series that began with *American Religious Democracy* and will continue with *Hallowed Secularism* when that book is published late this year. The first book was about religion and politics and the second about how to live a full secular life by incorporating the wisdom and message of Our Religions even though one rejects their dogmas. The third book is about religion and American constitutional law. It will be called, *For the Establishment of Religion*. The book argues that constitutional law should not be interpreted, in fact is not going to be interpreted, to require a secular state. Instead, the law should allow the people through their government to endorse religion in a general sense, though not any one religion. I'll set forth the arguments in favor of this position in later posts. For now, let me introduce the basic idea. These three books are really about one matter seen from different perspectives. The matter is secularism and its life. If we are going to be secular, and I think we are, we had better stop borrowing our goodness and values from the residue of Christian culture and start thinking about how we can continue to renew our civilization without Christianity per se. I am tired of materialists insisting that they are good people when there is no particular reason they should be, given their purported understanding of reality. Here is an example of what happens to a secular culture when it loses its sense of magic. Will Blythe is writing in the 6/15 edition of the New York Times book review section about a new edition of James Agee's posthumously published novel, *Death in the Family*. The first line is a quote from Michael Lofaro's new edition: "One by one, million by million, in the prescience of dawn, every leaf in that part of the world was moved." Why don't our novelists write in Agee's tender high style these days? Either something has gone out of the world, or something has gone out of them. His book reads like a prayer, an attempt to breathe life into the dead through mighty exertions of language. Everything is consecrated. Trees move in their sleep, stars tremble like lanterns, and a butterfly — yes, a butterfly — alights on a coffin. "If we take Blythe's question seriously--why don't our novelists write this way these days--we can answer that they do, or that times change, or something not too dramatic. But even if Blythe is wrong, Blythe's question at least suggests something that can happen. Light can go out. I am afraid that this is exactly what is going to happen unless secularists wake up and take a look around at the religionless world they are helping create. It is not going to be a healthy world. What can be done? Well, first we can drop our automatic opposition to all things religious in the public realm. Senator Barack Obama may be suggesting that we do exactly that. But that will be for another post.

Title: The "I Believe" License Plates

Date: 2008-06-21T08:49:00.001-04:00

6/21/2008--I am sorry that South Carolina made itself such an easy target in creating its new "I Believe" automobile license plates. The plates carry the words "I Believe" plus a cross superimposed on a stained glass window. Because of the cross, the plates might as well say "I am a Christian". Given current constitutional caselaw, a strong majority on the Supreme Court, maybe unanimously, will not allow South Carolina to give official preference to Christianity. So, the only way the license plate can be defended is by treating it as private speech allowed but not favored by government. Unfortunately for South Carolina, apparently the procedures for private-group plates were not followed. Anyway, according to newspaper accounts, Americans United for Separation of Church and State filed a lawsuit last week on behalf of two Christian pastors, a humanist pastor and a rabbi in South Carolina, along with the Hindu American Foundation. They will probably win the case and they should. I am sorry that South Carolina did not create a simple "I Believe" license plate, without the cross. Such a plate would have said I am a believer. It would not have specified any religion, or even religion itself. It would have stood as a symbolic expression against materialism, relativism, nihilism, and nationalism, at least in theory. That license plate could have been argued as permissible speech by government itself (although no doubt government could not and should not impose such a plate on everyone.) The point, as Hallowed Secularism makes clear, is that we are facing a new question today. Not the competition of individual religions, but what if anything does our culture believe in?

Title: Sacred Science

Date: 2008-06-24T14:20:00.003-04:00

6/24/2008--My son, Ben, sent me a short Opinion piece from July 2008 Scientific American magazine, entitled Sacred Science, can emergence break the spell of reductionism and put spirituality back into nature? The piece is by Michael Shermer, the self-described "libertarian skeptic writer and social scientist" who publishes the magazine, Skeptic. Shermer's reference to "Sacred Science" is a description of Stuart Kauffman's new book, Reinventing the Sacred: A New View of Science, Reason & Religion (Basic Books 2008). What Kauffman does is naturalize the deity. God, Kauffman writes, "is our chosen name for the ceaseless creativity in the natural universe, biosphere and human cultures." His point is to counter reductionism and describe instead a comprehensive theory of emergence and self-organization that cannot be accounted for within our understanding of the laws of physics: "Something wholly new emerges at these higher levels of complexity". This creative process of emergence "is so stunning, so overwhelming, so worthy of awe, gratitude and respect that it is God enough for many of us. God, a fully natural God, is the very creativity in the universe." Shermer calls this "God 2.0" and says it is "worthy of worship". But Shermer expects the Bronze Age God 1.0, Yahweh, to stick around anyway. Shermer's tone in this short piece is respectful and almost pious. It is quite a different tone from his usual wisecracking cheerfulness. Even more surprising is the announcement Shermer has put on the website for Skeptic concerning Kauffman's upcoming lecture based on his book: "[he] argues that people who do not believe in God have largely lost their sense of the sacred and the deep human legitimacy of our inherited spirituality... ." Is Shermer worried? Does he now join Austin Dacey in the beginnings of concern about the future of secular culture? About the needed sources of depth for human life? If so, Hallowed Secularism will have an audience.

Title: Something Incoherent About Barack Obama

Date: 2008-06-26T14:59:00.001-04:00

6/26/2008--No, I am not referring to Senator Obama's attack on the Supreme Court's decision that the death penalty may not be inflicted on a child rapist. Democrats have learned not to lose Presidential elections on issues that Presidents have nothing or little to do with. I don't like it, but it is not incoherent. I am referring to something Obama said about religion in the public square that totally disconnects from his basic message. Obama's message to Evangelical Christians and other believers has been that he is comfortable with religion in the public square. According to press reports, in his speech to the 2006 Sojourners/Call to Renewal conference Obama stated that "Secularists are wrong when they ask believers to leave their religion at the door before entering the public square." This openness to religion is proving very canny in terms of Obama's election prospects. He was recently praised for it in the Wall Street Journal, for example. (William McGurn, Main Street, 6/10/2008). But Obama was attacked Tuesday on James Dobson's Focus on the Family radio program for something else he said at that 2006 Call to Renewal conference. Obama said that believers must frame debates over issues like abortion in terms of arguments accessible to all people and not just their co-believers. Dobson rightly said that this demand was an indirect exclusion of believers from political debate. Furthermore, in a democracy, who is Obama to tell people how to speak? The answer to exclusionary language in the public square is simply that most other people will not be convinced by narrow religious appeals. But there is nothing wrong with such appeals in principle. There is no censorship in America, even of religious language. This requirement aimed only at religious believers is a vestige of a reflexive liberal discomfort with religion. I wrote about this aspect of Obama's message last year in op-ed pieces in the Baltimore Sun and Newsday and I am happy to see Dobson holding Obama's feet to this particular fire. This reference restricting religious language is out-of-step with Obama's basic message and he should repudiate it. Apparently, it is not going away.

Title: The Kennedy Court on Religion

Date: 2008-06-29T07:12:00.002-04:00

6/29/2008--Linda Greenhouse wrote a wrap piece on the Supreme Court's latest term in the New York Times today. Her conclusion is that Justice Anthony Kennedy is now the absolute swing vote between the two 4-Justice blocs on the Court: the liberal bloc, composed of Justices Stevens, Souter, Ginsburg and Breyer versus the conservative bloc of Chief Justice Roberts and Justices Scalia, Thomas and Alito.

Greenhouse's conclusion is both accurate and obvious. You could see it in the Guantanamo and gun rights cases, in which Justice Kennedy cast the deciding votes between the blocs.

But the dog that didn't bark this term, hasn't barked in several years in fact, is religion. Since the 2005 Ten Commandments cases, in which the Court split 5-4 in two cases—one allowing, one prohibiting public displays of the Ten Commandments—the Supreme Court has not returned to the fundamental question of church and state under the Establishment Clause.

This is surprising because in those 2005 cases, Justice Scalia wrote a dissent on behalf of Chief Justice Rehnquist and Justice Thomas fundamentally challenging not only the wall of separation between church and state, but also endorsing monotheism as a kind of official state religion. With the changes in personnel on the Court since then—Roberts and Alito for Rehnquist and O'Connor—one would expect the Court to return and settle the matter in a potentially revolutionary religion decision.

Not only has the Court not done this, but the Court has not granted review for next year in a case raising fundamental questions about the Establishment Clause. What's going on?

Of course no one knows what goes on behind the scenes on the Supreme Court, but the answer seems to me to lie in the nature of the division on religion on the Court. I assume that Chief Justice Roberts and Justice Alito agree with Justices Scalia and Thomas about the need for a new approach. But they may not be ready to actually overturn the wall of separation between church and state. Nor may they agree with Justice Scalia's willingness to endorse monotheism.

Meanwhile, Justice Kennedy is only a swing vote in a sense in religion cases. The Justice who cast the fifth vote to uphold one display and prohibit the other in 2005 was Justice Stephen Breyer. Justice Kennedy voted to uphold both displays.

But Justice Kennedy did not join that part of Justice Scalia's dissent that set forth Justice Scalia's new theory of church and state and, of course, neither did Justice Breyer.

My guess is this: none of the four—Roberts, Alito, Kennedy or Breyer—is ready to say what if any new approach to church and state should come next. Therefore, the lower courts continue to muddle along without any dramatic decisions—no more cases taking “under God” out of the Pledge of Allegiance—while the Court considers what to do next. In this interim, the lower courts are continuing to apply government neutrality language and are continuing to look for an illegal government motive to promote religion, despite the likelihood that these approaches no longer enjoy majority support on the Supreme Court.

Well, what should come next? Tune in for my suggestion: establishment of religion.

Title: The Secularist's Prayer

Date: 2008-07-01T07:50:00.001-04:00

7/1/2008--I have been thinking about Pascal's wager on the existence of God and I realize that somehow the secularist may be able to love God more truly than can the religious person. The religious person, despite best efforts to the contrary, hopes to see God after death. That is a reward. The secularist, in contrast, knows that all such hopes are in vain. The secularist lives constantly before death—and yet loves God all the same: a God who does not exist. I also heard from a religious critic who asked about the daily life of Hallowed Secularism. Well, daily life must have prayer, so here is one possible prayer from a Hallowed Secularist. Dear God—the one I learned to pray to as a child. I know you do not exist. The regularities of nature do not admit of intervention. We cannot survive without our bodies. You are not. But I love you all the same. You stand for me for the power of good—in the universe, in our history, and in my life. And you stand for me against my sinful nature. I wish I could know you. Dear Jesus—who did exist. You cannot be the son of God. I understand why you thought so. It is as if you were. Thank you for the good things your followers brought: science, freedom, equality, democracy. I promise to try to live my life close to yours.

Title: Having it Both Ways on Faith-Based Providers

Date: 2008-07-03T08:47:00.002-04:00

7/3/2008--Senator Barack Obama is trying to have it both ways on the issue of granting public money to religiously-affiliated non-profit organizations that are providing services to those in need. The likely Democratic nominee for President, whom I support by the way, says that such groups should be eligible for public funds. This helps him appeal to religious voters. But then Obama says, inconsistently, that these religious groups should not be permitted to discriminate on the basis of religion in hiring their own staff. No one doubts that if you receive public money to provide services, you can neither discriminate in choice of clients nor proselytize. These were both requirements under President Bush's original faith-based initiative. But, having conceded that religious groups should be eligible to receive public funds, how can their desire to provide services as a religious organization be questioned? The reason that a religious group provides needed services is not, after all, just to provide the services. Presumably the reason they do so is that this service to others is witnessing to God's love. How can a Christian organization, for example, witness to God's love through Christ unless the organization is Christian? Not only is Obama's position incoherent, it is not clear what the government's interest is in requiring religiously-neutral hiring in this context. If the point of the program is to provide services to those who need them, then as long as there is no discrimination in the choice of clients, that need is fulfilled. If the point is to ensure that there is no discrimination in the public services job market, then why only require religious groups who receive public money to hire neutrally? Why not require this of all religious groups that provide services to the needy regardless of whether they receive public funds or not? Everyone can see that such a requirement would be an intolerable interference with such groups' religious rights. How does the receipt of public funds change that? As readers of this blog know, this is not the first time Senator Obama has tried to have it both ways on religion. He says he is open to the language of faith in the public square but then reverses that by saying that believers should translate religious language into language accessible to all. Senator Obama is going to learn that religion is an area requiring clear principles. It is not a place for splitting the difference.

Title: For the Establishment of Religion: Where Are We Now?

Date: 2008-07-06T06:59:00.002-04:00

7/6/2008--Readers of this blog know that I am in the midst of the third book in the series—For the Establishment of Religion. The book argues that government should be permitted to “establish” religion, as opposed to any one religion, and that this is not inconsistent with secularism—of course of the Hallowed Secularism variety. In Chapter 1 of the book, I set forth where we are now in terms of the law of church and state. Where we are is parallel to the recent decision of the Supreme Court in the gun control case: *D.C. v. Heller*, in which the Supreme Court, 5-4, recognized for the first time a right in the individual to have a gun. The parallel is that in both religion and gun rights, history does not give a clear answer. History is contested as to whether the right in the Second Amendment is collective only (“militia”) or protects individuals as well. At least in a situation like that, deep political and cultural shifts can decide cases, perhaps always decide cases. The NRA won this argument not just on the Court, but in years of dominating political life. When the Democrats essentially gave up on gun control, *Heller* became either inevitable or unnecessary. In terms of church and state, in 1947 the Court first endorsed a genuine vision of separation of religion from American public life, in *Everson v. Board of Education*. That was the case that fully embraced Jefferson’s wall of separation between church and state. The Court called that wall “high and impregnable,” which Jefferson would have known better than to have done. By increasingly narrow majorities, that vision of a government required to be neutral about religion retained its dominant position in American constitutional law. But, again as in the case of gun rights, once the Democratic Party abandoned a genuinely separate vision of politics and religion—as surely the 2008 Presidential election demonstrates—an abandonment of the wall of separation would also happen—either formally, by overturning the metaphor, or indirectly, by abandoning it. To see this, note the difference between the role abortion and religion play in the 2008 election. Everyone knows that if Senator John McCain wins, *Roe v. Wade* may be overruled, whereas if Senator Barack Obama wins, that is much less likely to happen. The Court is that closely divided and the two parties that clear in commitment. On the other hand, in terms of church and state, though the Court is just as closely divided, no one is saying that if Senator Obama wins, the wall of separation will be safer. Some people may hope this is true, but there is not much indication of such a commitment from him. As I said in *American Religious Democracy*, I believe the days of the wall of separation are numbered. As I wrote in *Hallowed Secularism*, that is not only not a threat to secularism, it is perhaps a necessity for a new and healthier secularism. The question is, if not the wall, what comes next?

Title: Gender and Religion

Date: 2008-07-09T15:04:00.002-04:00

7/9/2008--I was at an orthodox Jewish wedding last Sunday and I was very impressed. The community and especially the young men in the synagogue attended even though as far as I could tell they did not have especially close ties to the couple getting married. After the ceremony, the men and women danced separately to what sounded like Polish and Russian folk music in traditional style. There were even juggling and acrobatics among the men. It was a lot of fun. The women were having a lot of fun also. The two dancing groups were separated only by a thin wall. And, I must say, I did not see the boorish behavior by men around their wives that I see commonly at other weddings. (There was also an open bar and no one was drunk). Obviously gender roles were more or less traditional among the members of the synagogue, but again I saw more young men taking care of their children than I usually see among young men. Basically I was seeing healthy, young male models. At the same time, Megan Baham was asking in World Magazine (July 12/19, 2008) why so many young men are drawn to a movie like Wanted? She asks, "How little opportunity does our culture offer them to feel deserving of respect?" Of course this healthy male role model in synagogue is purchased by discriminatory gender practices within Orthodox Judaism. These practices may not bother the women involved, but they are jarring to the outsider. Women were not allowed to offer any prayers during the marriage ceremony or even to speak (or at least no woman did speak). And the bride was handed over to the husband by her parents. And on and on. So, no one is suggesting that Orthodoxy is a healthy new model for religious life. Yet, all the same, those young men were happy, or so it seemed to me. They seemed to know who they are. And their wives and families seemed to benefit from their confidence and grounded identities. One thing for sure: our culture offers basically one role model to young men—economic success (aside from the military--another male dominated, conservative subculture). Since most of us do not attain that, there is not much of a place for young men. Hallowed Secularism might learn a thing or two from Orthodox Judaism.

Title: Secular Israeli Democracy

Date: 2008-07-12T11:49:00.003-04:00

7/12/2008--There is no more damning criticism of the whole idea of Hallowed Secularism than the book *The Hebrew Republic: How Secular Democracy and Global Enterprise Will Bring Israel Peace at Last* by Bernard Avishai. Avishai argues that Israel and its neighbors will never live in peace until the State becomes secular. He is not looking at the Muslims who hate the Jewish presence when he says this, but at the non-democratic elements of Israeli life. Non-Jews will never be equal citizens in the current Jewish State because of Zionist ideology, the Haredi-community and the settler movement in the occupied territories. Avishai's book is the second proposal for radical change in Israel's Jewish identity. According to a review of Avishai's book, by Adam Lebor in the *New York Times*, "[r]ecently, the Adalah advocacy center proposed a new draft constitution for Israel. It would abolish the law of return, which awards immediate citizenship to Jewish immigrants; it would require coequal and separate education systems and new, inclusive, national symbols." Avishai would go further, to abolish official religious orientation altogether. Perhaps Avishai is naïve to imagine capitalism as a force that brings people together. The "global enterprise" of which he writes has not been a constructive force everywhere. But the problem for those of us who think that religion is a force for good is Avishai's experience. From his perspective, and he has reason for thinking so, the world would be better off if religion just disappeared. This is, after all, just what Christopher Hitchens says.

Title: Meeting of Our Religions in Spain

Date: 2008-07-15T09:16:00.001-04:00

7/15/2008--From today's New York Times News digest—King Abdullah of Saudi Arabia will open an international conference in Madrid on Wednesday meant to encourage representatives of the world's great religions "to get to know each other," organizers of the event said. Apparently the main point of the conference is to bring together rabbis, Christian leaders, and clerics of the Wahhabi sect of Islam dominant in Saudi Arabia, even though representative of other religions will also attend. It is easy to be cynical about an effort like this. The one Israeli rabbi who will be attending—David Rosen—is listed as an American, not an Israeli. Only one representative was invited from Shiite dominated Iran. The conference is being held in Spain and not in Saudi Arabia, it is being suggested, to avoid inviting so many Jews and Christians into the Kingdom. And yet. Despite the efforts of Bernard Avishai that I mentioned in an earlier post, Israel and its neighbors are not suddenly going to become secular commercial nations. They are going to remain religious. If they ever become secular, it will be a secularism that contains religious elements, such as Hallowed Secularism. This reality means that, as my friend Robert Taylor likes to say, there will never be peace there until there is peace among the religions. Maybe this conference will be a step in that direction. The choice should also remind of something else. Spain is using the conference to remind the world that it is the place where once all three of the monotheistic faiths—Islam, Christianity and Judaism—lived in peace and creative harmony. This is true. Jews call it the golden age of Spain. What we need to remember is that the golden age of peace ended when the Christians reconquered the peninsula. Peace and harmony reigned when Islam ruled. So those who say that Islam is an inevitably violent religion are simply wrong. Islam is not the problem. People are. We are.

Title: Hegel and the wall of separation

Date: 2008-07-17T14:00:00.002-04:00

7/17/2008--a friend sent the following quote from Hegel's Philosophy of History: The Secular power forsaken by the Spirit, must in the first instance vanish in presence of the Ecclesiastical [as representative of the Spirit]; but while this latter degrades itself to mere secularity, it loses its influence with the loss of its proper character and vocation. From this corruption of the Ecclesiastical element—that is, of the church—results the higher form of rational thought. Spirit once more driven back upon itself, produces its work in intellectual shape, and becomes capable of realizing the Ideal of Reason from the Secular principle alone. Thus it happens, that in virtue of the element of Universality, which have the principle of Spirit as their basis, the empire of thought is established actually and concretely. The antithesis of Church and State vanishes. The Spiritual becomes reconnected with the Secular, and develops this latter as an independently organic existence. The State no longer occupies a position of real inferiority to the Church, and is no longer subordinate to it. The latter asserts no prerogative, and the Spiritual is no longer an element foreign to the State. Freedom has found the means of realizing its Ideal—its true existence. This is the ultimate result which the process of History is intended to accomplish... Notice that the antithesis of Church and State vanishes in that the Spiritual is no longer foreign to the State. Yet the State does not become the Church. Nor does the Church dominate the State. Sounds like Hallowed Secularism.

Title: More on the Interfaith Meeting in Spain

Date: 2008-07-20T06:51:00.000-04:00

7/20/2008--Another report from Rabbi Arthur Waskow and Rabbi Phyllis Berman from the Shalom Center on the Saudi-sponsored inter-faith dialogue in Spain. For more information, go to the Shalom Center website,

<http://www.shalomctr.org/>*****The most fiery moment of the gathering came when one Muslim speaker, discussing Christian-Muslim-Jewish dialogue, cast doubt on whether Jewish-Muslim dialogue was possible. He also asserted that while Judaism is a religious path, Zionism is a political construct. Jews and Muslims rose to correct him, reporting that in many cultures -- North and South America, Britain, Western Europe, Sarajevo in Southeastern Europe -- Jews and Muslims were already carrying out various forms of dialogue and shared action. That was when Arthur described not only the process but also the results of the Tent's work - including our stimulating major organizations of all three Abrahamic communities to oppose the US government's invasion and occupation of Iraq. Moreover, Rabbi David Rosen spoke to the Judaism/ Zionism question, saying that true dialogue requires understanding the Other as the Other sees (him/her)self and that most of the Jewish community sees the connection between the People Israel and the Land of Israel as a religious matter, even when some disagree with the behavior of any political or governmental expression of that bond. These disagreements with the original speaker were met with openness: considerable applause, some doubt. The fact that Muslims themselves testified that Jewish-Muslim dialogue not only was possible but had been happening for years was clearly news to some of the more cloistered Muslims present. *****As the report states, some people have looked at this conference with skepticism. But Rabbis Waskow and Berman are quite hopeful.

Title: Christians Captured by Capitalism

Date: 2008-07-24T08:09:00.002-04:00

7/24/2008--The most recent issue of World Magazine illustrates a sad tendency—Christians who become ideologically committed to socio-economic doctrines that have nothing to do with the Gospel. One example of this in general is the issue of global warming. Whether human beings are causing an increase in global temperatures is a scientific question, not a religious one. While people may, of course, disagree on the fact of the matter, there would be no reason for a Christian news magazine to have an obvious commitment on the issue, as World Magazine does. The magazine obviously is biased in the direction that planet is not warming or that humans are not causing it.

Now, why would that be? It seems to me it is a part of the capture of some conservative Christians by the ideology of a certain kind of capitalism—small government, little regulation, low taxes. These may be excellent policies, but their connection to the Bible escapes me. At the same time, the magazine lacks much if any criticism of market policies. Again, maybe there aren't any. But Jesus did seem somewhat hostile to the rich.

Here is an example of what I mean. The article in the current issue about our economic problems, Crisis of a Lifetime, by Professor Alex Tokarev, contains only criticism of the government. There is not much there about the greed of lenders that pushed people into mortgages they could not afford and not much about the need for greater regulatory oversight of the lending industry. Why would a Christian perspective not assume that human greed would rear its head? Of course it would.

The article also criticizes the government for sponsoring consumption. But there is not a mention of a greater culprit on that issue—the advertising industry. There is no mention of that because considering the ills of capitalism might raise fundamental issues. Maybe capitalism must expand its markets, as Lenin suggested. Thus, maybe our meltdown was inevitable.

Joe Belz, in an opinion piece entitled “Wrong Doxology,” also in the current issue, made the ideological link between Christian thought and the market explicit in his call for developing a biblical link to justify small government commitments:

“But if I'm right that the 'limited government' cadre is, year in and year out, the most influential segment of this conservative trio, then there's an urgency in developing a clearly biblical rationale for this group's core principles and priorities. We do that partly out of principle: We want, very simply, to be right. And we want to be biblically grounded in everything we do. But we also do it partly out of pragmatism: Even if others don't care about such biblical groundedness, they will be stronger and their efforts more productive because of our joining them in the coalition.”

It's obvious that the commitment to the conservative coalition comes first, and the Bible second. The Bible is then combed to justify the commitment. This is ideology, not theology.

So what? You might say, These people are all committed Republicans, aren't they? Who cares what they think? But you would be wrong.

The point of Hallowed Secularism is a connection between secular thought and religious thought. Conservative or liberal ideology has no place in this dialogue. Secularists already believe that Christianity is a mere front for conservative politics. That is part of the problem.

Just compare World Magazine to the Catholic Church. The Catholic Church is just as “conservative” on abortion and gay marriage, but can be startlingly “liberal” on the environment. And the Church has never committed itself to capitalist ideology. That is why secular/Christian dialogue is likely to start, and actually with Habermas has started, there.

Title: Hallowed Secularism and the Fear of Death

Date: 2008-07-27T07:18:00.002-04:00

7/27/2008--I am writing a book to be entitled "For the Establishment of Religion". The book argues that the American law of church and state is changing. The dominant paradigm—separation of church and state and government neutrality toward religion—probably no longer commands majority support on the Supreme Court and probably will not do so for the foreseeable future no matter who wins the Presidential election. A President Obama is not going to nominate a separationist like Justice Stevens after the faith friendly campaign he has been running. The wall of separation ran into "under God" in the Pledge of Allegiance.

Unfortunately, the only alternative to the separation approach to the Establishment Clause right now is Justice Scalia's proposal to endorse monotheism, to the denigration not only of non-believers, but Buddhists and Hindus and other believers. He says their views can be disregarded in light of the history in America of monotheism.

With luck, that proposal will not gain majority support on the Court either. It does not reflect the openness of the American people.

My book will argue that government should be permitted to endorse—"establish"—religion, just not any particular religion. My understanding of religion includes the notion of Hallowed Secularism, so that not only all believers but most secularists are included. (Whether this vision succeeds, is another question).

But my approach requires a broad notion of "religion", one that is consonant with a basically naturalistic view of reality. For example, the natural laws of science are not subject to miraculous exceptions.

This leads to a dispute with the terrific American sociologist, Peter Berger. In *A Rumor of Angels: Modern Society and the Rediscovery of the Supernatural* (1969)(reissued with new material in 1990), Professor Berger suggests that trust in reality is at the heart of religion—with which I certainly agree--and that if this trust does not include a reality beyond death, that trust is not truthful, but is a delusion.

It seems to me that this assertion illustrates a basic disagreement between the Christian tradition and the original insight of the Hebrew Bible. (Judaism has since wavered on this point). The Old Testament was generally content with a human span of life in obedience to God's will in support of God's plan for humanity. That is how Abraham lived and died. It is how Moses lived and died. There was no promise to them of personal immortality in a heaven, nor of an end to suffering in a new age—no messianism, in other words-- though Pope Benedict sees that promise in the farewell to Moses in Deuteronomy.

The question is, can man live with death as an ultimate finality and still affirm existence? I think the answer to that question is yes. This is a different question from the question about suffering, whether inflicted by nature or by human beings on each other. On that, more later.

Title: Is Leah Daughtry a Phony?

Date: 2008-07-30T09:08:00.001-04:00

7/30/2008--Last week, in the New York Times Magazine, Daniel Bergner featured the efforts by Leah Daughtry, chief of staff to Howard Dean and Democratic Party Convention organizer, to make the Democratic Party more open to religious voters (7/20/2008). The article makes it crystal clear that Ms. Daughtry is a sincere religious believer. So, why do I ask whether she is a phony? Two reasons. First, although she may be sincere, her efforts may indeed be mere appearance rather than substance. In one telling example in the story, the "Faith in Action" team (3 evangelicals, a Catholic, a Muslim and a Jew—I am not making this up), which is trying to inject religion into the Democratic Convention, decided to have a prayer service to start the convention: "the service would be held in a theater, in neutral, secular space, so as not to offend anyone; the question was how to make the televised event look sacred." That is what is wrong with the whole effort. It is an attempt to make the Party look religious, without offending anyone who thinks politics should not be religious. This is the inconsistency that Senator Obama has been wrestling with all during the campaign. He runs on his Christianity, but still thinks in outdated constitutional categories of the wall of separation. (By outdated here, I only mean no longer representing a majority on the Supreme Court). Senator Obama is lucky no one has asked him whether the Ten Commandments can be posted in a courtroom. The second reason I ask whether Ms. Daughtry is a phony is her statement that "at this point in time" is the best way for her to be faithful to God's will is to work for the success of the Democratic Party. Now, I don't believe in Ms. Daughtry's God, so I should not have an opinion. But I do anyway. I promise you that the God of the Bible does not care which Party wins an election. Ms. Daughtry is using the same language that the Republicans do—the only way to be faithful to God is to vote a certain way. From the point of view of the Bible, all politics is a lie and all politicians are liars—voters too. I don't mean that all courses of action are equal. Far from it. But all these political institutions are human in a fallen world. Not one of them ever represents God's will. Only people can ever, and only sometimes, do that.

Title: Is There a Common Core to Religion?

Date: 2008-08-03T09:53:00.002-04:00

I have been suggesting that the Establishment Clause should be interpreted to allow the government to establish “religion”, but not a religion. Surely readers have been asking themselves for awhile, just what is this “religion”?

There is some evidence that the American people accept the idea of a common core among religions. A recent study suggested a surprisingly high level of acceptance among Americans with regard to religious traditions other than their own. The Pew Forum on Religion and Public Life last year surveyed 35,000 Americans, and found that 70% of persons affiliated with a religion agreed with the statement “Many religions can lead to eternal life.”[1] I am extrapolating that someone who feels that all religions may lead to salvation must also believe that all religions express some common core of salvation values.

I’m not sure that Americans have thought very much about what these common values might be, let alone whether the use of Judeo-Christian language, including the word God itself, is helpful in expressing these values. But Justices Brennan and O’Connor gave some voice to this possible religious core in *Lynch*, the case that upheld a crèche in a City’s Christmas display in 1984.

Justice O’Connor was concurring in *Lynch*, concluding that the inclusion of the crèche in the City’s Christmas display did not amount to an endorsement of religion, and therefore was not a violation of the Establishment Clause. The crèche was no more an endorsement of religion than other public expressions of religion the Court had already allowed—such as prayer to open legislative sessions—or other practices using religious language that had not even been challenged—such as the announcement “God save the United States and this honorable court” to open Supreme Court sessions.

The problem for Justice O’Connor was to explain why these other expressions did not endorse religion. They seemed to, after all. But these expressions are permissible, she argued, because they serve, and are understood to serve, nonreligious purposes.

"Those government acknowledgments of religion serve, in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society."[2]

There is a sense in Justice O’Connor’s observation that religious expressions convey something that cannot be conveyed in any other way in this culture. What that something is, may be the common core of religion that I am suggesting government may establish. One of her suggestions is that religion helps us recognize what is most worthy in life.

Justice Brennan wrote the principal dissent in *Lynch*, for three other Justices. He also discussed these same sorts of public religious expressions. Justice Brennan first dismissed any religious content in them, referring to them as ceremonial deism, a phrase he borrowed from Dean Rostow.^[3] He then seemed to agree with Justice O'Connor that

"these references are uniquely suited to serve such wholly secular purposes as solemnizing public occasions, or inspiring commitment to meet some national challenge in a manner that simply could not be fully served in our culture if government were limited to purely non-religious phrases."

As Justice Kennedy observed in another case, the sorts of goals to which Justices O'Connor and Brennan are advertent, are not purely secular.^[4] These are goals infused with religious meaning. Religion may well inspire us to meet national challenges in a way that nonreligious language, images and values cannot. But that need not be because religion is effective cheerleading. It may be because the core of religion is teaching us what is important, or even that some things are important.

[1] Report 2, at <http://religions.pewforum.org/reports>.

[2] 465 U.S. at 693 (O'Connor, J., concurring).

[3] 465 U.S. at 717 (Brennan, J., dissenting).

[4] *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 492 U.S. at 673 (Kennedy, J., concurring in the judgment in part and dissenting in part).

Title: Cal Thomas Calls Obama "No Christian"

Date: 2008-08-05T15:25:00.001-04:00

8/5/2008--Cathleen Falsani, religion columnist for the Chicago Sun Times, wrote a column today about Barack Obama's faith. The occasion for the column was a commentary by Cal Thomas, who wrote that Obama is not a Christian, based in part on an interview of Obama by Falsani in 2004. Falsani is convinced that Obama is a sincere Christian and she does not betray much understanding of what Thomas is talking about. I have not read the Thomas commentary, but Thomas was presumably offering an orthodox critique of Obama's religious faith. (Perhaps the problem is that Obama won't say that Jesus is the only path to salvation.) There are several levels on which to criticize Thomas. Theologically, Karl Barth, perhaps the greatest Christian theologian of the Twentieth Century, once said that being a Christian is not a matter of believing this or that proposition, but of a relationship to Jesus Christ. (I'm paraphrasing, but close enough). He also said that we cannot know who is a Christian and who is not. Pope Benedict wrote something similar in his book Truth and Tolerance. So, theologically, Thomas is just ridiculous. On another level, some secularists would say that this whole incident shows what is wrong with allowing religion to enter politics. Imagine an election campaign in which a candidate's religious beliefs can be considered relevant to this extent. It seems quite un-American. Falsani herself calls this inquiry into Obama's beliefs, "dangerous territory." Well, yes and no. Yes, of course the American political system should not be delving into questions of Christian orthodoxy or any other religious dogmas. On the other hand, Obama himself wants to run as a Christian. He is doing this to counter the traditional Republican advantage among religious voters. So, if Thomas is suggesting that Obama is cynically using religion to attract voters, it would seem to be a legitimate topic for criticism.

Title: New Thinkers in Religion and Secularism

Date: 2008-08-07T08:15:00.002-04:00

8/7/2008--There has been a lot of work recently done on the border of religion and secularism, which is the general vicinity of Hallowed Secularism. The next few blogs will zero in on some of these thinkers. One front is the counter-attack against the New Atheists—Hitchens, Dawkins, Harris, Dennett etc. Chris Hedges has one such book out, *I Don't Believe in Atheists*. This book is all over the place and seems to be a kind of secular/fatalistic response (although Hedges graduated from Harvard Divinity School). Hedges repeatedly states that we live in a morally neutral universe that does not care about our fate, that we have few real choices, that the world cannot improve much and so forth. He criticizes the New Atheists as messianic and apocalyptic, much like the Christian fundamentalists he attacked in *American Fascists*. One great thing about Hedges is his defense of the Muslim world against the amazing prejudice and militarism in Hitchens and the rest. Beattie, on the other hand, is very much a theological response to the New Atheists from a respected Catholic feminist. Beattie is one of the new religious thinkers who comes to grips with the modern world in fullness and yet remains within the religious tradition. Her book is *The New Atheists*. A little further out, but still very much in the tradition of theism is Michael Hampson—*God Without God*—whom I have mentioned before. He is not that much concerned with the New Atheists, except to accept some of their critique of the concept of God and to then look again at God, outside the presumptive monotheism they criticize. Beattie and Hampson seem to me to be must reading for those who hope to stay within the Christian tradition and who are having trouble doing so. Much closer to Hallowed Secularism are James C. Edwards and Susan Neiman. Edwards' book, *The Plain Sense of Things: The Fate of Religion in an Age of Normal Nihilism*, has been out for awhile (1997 Penn State) and I do not understand why it did not find a wider audience. Edwards is a learned Hallowed Secularist. Neiman is much more a secularist first, in fact an admirer of the Enlightenment. Her new book, *Moral Clarity*, will be helpful for those people who find Edwards—and me—too religious. I think Neiman makes an important theological mistake in her book, however, which I will return to in my next entry.

Title: Susan Neiman's Theological Error

Date: 2008-08-09T13:00:00.002-04:00

8/9/2008--In my last post, I mentioned a theological error by Susan Neiman, who is the author of *Moral Clarity: A Guide for Grown-Up Idealists* (Harcourt 2008). I am a great fan of Neiman, whose prior book, *Evil in Modern Thought* (Princeton 2002) was a very influential book. Neiman is now the Director of the Einstein Forum. Neiman is not a cheap anti-religious thinker, like the New Atheists. She is an admirer of religion. Nevertheless, her new book is a defense of secular Enlightenment values. Neiman opens the book with a contrast of two episodes in the biblical life of Abraham. At Sodom, Abraham speaks to God in the name of universal reason to essentially criticize God's planned punishment of the two cities. In contrast, Abraham asks no questions at Mt. Moriah, where he is told to sacrifice his son, Isaac. The contrast is between reason in the first episode and faith, in the second. This contrast, however, no longer applies. Yes, Abraham showed faith in his willingness to sacrifice his son. But the same revelation—the Bible—supports Abraham's willingness to question God at Sodom. And now, post-Mt. Moriah, we know that God does not desire the death of the innocent at any time. In other words, aside from Abraham's faith, we learn the same lesson from the two episodes—the judge of all the world will do right. To put this more plainly, what should a present Abraham say when told by God to do something "wrong"? Now we know that God would want to be questioned. Now we know, as Abraham perhaps could not, that an unjust command could only be a test, and not something God actually wants to see done. But, a test you know is a test, is no test. Thus, even in the Bible itself, the age of Abrahamic faith is over. (I could tell this same story with regard to Jesus and the resurrection. Jesus could feel abandoned, but the Christian believer no longer can, because of what ultimately happened to Jesus.) So, to use this contrast today is an error. We are not supposed to be the Abraham of faith anymore.

Title: The Dark Knight and Hallowed Secularism

Date: 2008-08-11T10:18:00.001-04:00

8/11/2008--I saw the Dark Knight Batman movie last night and it was not what I expected. The movie's theme I had heard about concerned the limits of vigilantism. That was present in the movie, but what the movie seemed most like was a law school exam. The movie is built around four ethical dilemmas. We can call them, 1) the DA or the girl; 2) the ship of fools or the ship of cons; 3) the informer or the hospital; and 4) Sophie's Choice (one or another of the family members). In all four instances, a choice must be made between saving one person or another. In one instance the chooser is at risk and in the others, the chooser is simply choosing. The law student recognizes all these instances as further examples of Professor Lon Fuller's Case of the Speluncean Explorers in the 1949 Harvard Law Review. As described recently by Professor Stuart Green, the case involves a group of spelunkers in the Commonwealth of Newgarth, who are trapped in a cave by a landslide. As they approach the point of starvation, they make radio contact with a rescue team. They are told that the rescue will take another ten days and that, unless they obtain nourishment, they will surely die. With no one at the rescue camp willing to advise them as to what they should do, the men turn off the radio, hold a lottery, kill the loser (one Whetmore), eat his body, and survive. When they are rescued, they are prosecuted for murder, which in Newgarth carries a mandatory death penalty. The question is whether they should have a defense. The disappointment with all this in the movie is that the answers to these dilemmas are presented without any explanation. The passengers should choose to die rather than sacrifice anybody. The informant should not be sacrificed to save the hospital. The detective should refuse to choose among family members. And I never did figure out how Batman should have chosen between the DA and the girl. Well, it's just a movie. But this movie should remind us that not that much changes in a secular world. You still have to make choices, even without organized religion or God. The question is, what is the moral framework of such a secular world? Batman is a secular movie and it is not clear at all what the moral starting point is or should be for resolving these, and other, moral issues. Part of the point of Hallowed Secularism is that the secularist would do well to turn to religious sources to help decide how to live. Our religions have a great deal of experience with the question of how to live and, specifically, with these sorts of ethical choices. We must learn to look.

Title: James C. Edwards—Philosopher of Hallowed Secularism

Date: 2008-08-13T10:33:00.002-04:00

8/11/2008--I have just finished a gem of a book: *The Plain Sense of Things: the Fate of Religion in an Age of Normal Nihilism* (Penn State 1997) by James C. Edwards, Professor of Philosophy at Furman University. On a deep level, Edwards is trying to describe a religious, post-dogmatic way of life very similar to the goal and framework of Hallowed Secularism. This is how Edwards describes his quest: "On some philosophers religious hardly registers; on others (I am one of them) it sits like a stone. ...In this book I have been trying to find a way of being religious that's still possible (or maybe the word is 'decent') for us. ...What would it be like to be religious when we can't really believe any of that glorious stuff—creation ex nihilo, virgin birth, bodily resurrection—we used to believe?" Edwards says our culture is characterized by normal nihilism. Religion in this context is a contingent value like everything else. It is not the truth. This condition can lead to unleashed humanism that destroys the planet or numbing conformity. In the past, religion has been able with its sacraments to combine a sense that human will is limited by something greater and a call away from the pieties of the world to a deeper and truer and richer life. Edwards tries to find that other way in philosophy, specifically Martin Heidegger's call to dwell poetically on the earth as a mortal, which Edwards unpacks. He begins with Henry David Thoreau's *Walden* as an example of the life practices he has in mind. This is not at all nature worship. His answer is living truthfully, which means someone's life becoming transparent to itself. We must express in our lives the conditions of life that made us and an appreciation that new meanings can come to be. This is the work of disciplined imagination. Well, you'll have to read the book. It's the beginning of a new kind of theology for a secular age.

Title: We Don't Want Justice

Date: 2008-08-16T14:11:00.002-04:00

8/16/2008--What is the most important prayer in Judaism? Probably, most Jews would answer the Sh'ma—the prayer of monotheistic affirmation of peoplehood. But, I think the most important prayer is prayed on the night of Yom Kippur and says “Let no one be punished for my sake.” This is a sensible prayer to say on the day that a Jew is asking God for forgiveness. After all, I am praying not to be punished for what I have done. I should, therefore, not want punishment for what others have done to me. That is logical, but in my experience it is impossible. I have tried to pray this prayer every year and yet I still want certain people to die alone in a ditch. Soon. I can't seem to help it. And most people I know are like me. Because I cannot say this prayer with a full heart, I have been unable to genuinely move on in my life. Judaism is offering me a structure of liberation. And I am clinging instead to wrongs done to me in the past. But I think this year will finally be different. There are two reasons for this. First, someone I love is doing something bad. I can foresee disaster. And I don't want that disaster to occur, even though this person deserves that outcome. So, I don't want justice to happen. It's interesting that I could never look at it that way before because I thought the person who wronged me acted so terribly that I was innocent in comparison. I do bad things too, but not as bad as what had been done to me. So I thought I was justified in wanting my vengeance. But now, now that someone I love is at risk, I don't want vengeance. I now want grace. That is the reason that this year I think I can pray, let no one be punished for what they have done, including those who have wronged me. Let my loved ones also not be punished for what they have done. I said there was a second reason and it is related. I just read that we might see an ice-free summer Arctic Ocean by 2013—a mere five years. The previous prediction had been 60 years. Humankind deserves disaster for our willful and reckless alteration of the world's climate. And I hope that will not happen, for the sake of my children and their children. So, justice seems too dangerous right now. And maybe that is the whole point of a day of atonement and prayers for forgiveness. Even if I cannot forgive, and though I certainly will not forget, I don't want bad things to happen to bad people. I know too many.

Title: Rick Warren and Religious Tests

Date: 2008-08-19T08:22:00.001-04:00

8/19/2008--Ruth Ann Dailey, a columnist for the Pittsburgh Post-Gazette, wrote an opinion piece in the Monday paper concerning Rick Warren's presidential forum on faith Saturday night. Dailey wrote this in part to respond to a C-Span caller who had objected to the whole interview with Senators Obama and McCain on the ground that the United States Constitution forbids any "religious Test" for public office in Article VI. Dailey correctly pointed out that Warren is not the government and so, technically speaking, Warren is not bound by the Constitution. [This is called the State Action doctrine and it is why, for example, a corporation can fire an employee for speaking out on company policy when the government might not be able fire an employee in a similar circumstance.] Dailey quoted Warren's broader response to this question. While Warren said he believes in the separation of church and state, he does not believe in the separation of faith and politics, "because faith is simply a worldview, and everybody's got a worldview." [I get Warren's idea, but it is still pretty horrifying to hear the Gospel reduced to a worldview.] The essentially religious nature of politics was the subject of my book, *American Religious Democracy: Coming to Terms with the End of Secular Politics* (Praeger 2007) so I will not comment further on that underlying point. I am tired, however, of hearing non-believers complain about religious political campaigning and invoking the Constitution. Chris Matthews did this on *Hardball* last December, attacking Mike Huckabee on this faux constitutional ground. So I thought I would reduce this issue to a syllogism. The Free Speech Clause of the First Amendment means that government cannot ban a socialist from running for President. But no one would object to a presidential forum discussing economic policy, nor to voters casting votes against the socialist candidate on that basis.

8/21/2008--All of the people in the New Secularism—that is, people who are thinking about a world without the dominant authority of institutional religion—have to decide what role religious wisdom is to play in this new secular world. (For those readers who are new to this blog, don't be fooled by the current upsurge in religious fundamentalism—the underlying growth in secularism, especially among the young, is the story of this century). One of those thinkers is Susan Neiman and her book *Moral Clarity: A Guide for Grown-Up Idealists* (Harcourt 2008). Neiman's approach to the New Secularism's relationship to religion is to revive Enlightenment values. (Take back the Enlightenment, she says). Unlike Austin Dacey in *The Secular Conscience* (Prometheus 2008), Neiman obviously values our religious traditions. Nevertheless, Neiman's basic position is the same as Dacey's: religion is a matter of authority in which the human being loses autonomy, while morality is (or should be) a matter of human reason. Both Neiman and Dacey want secularists to return to the language of morality and not to be relativists, but also not to surrender to religious authority. Neiman contrasts Abraham arguing with God over the fate of Sodom and Gomorrah with Abraham meekly accepting a death sentence for his son Isaac. In the former, Abraham is the Enlightenment hero. In the latter, Abraham is the man of religion following divine authority. (Neiman is not alone in this contrast. Kierkegaard might have agreed with this distinction.) But Abraham would not have agreed this distinction. When Abraham confronted God, he did so in the name of that same God, not in the name of some prior commitment to the categories of reason. In arguing that the innocent should be saved, Abraham famously says, "Shall not the Judge of all the world do right?" In English, one might be fooled into thinking that "right" is somehow a separate category from God. But in Hebrew, the question is, "hashofet (the judge) kol haaretz (of the whole world) lo yaaseh (not do) mishpat (right)?" In the Hebrew, shofet and mishpat are the same root word. Or, as we might say, shall not the Justice do justice? So Abraham is appealing to God in the name of God. Shall not God do godly things? The question, is something right because God wills it or does God will it because it is right, is senseless in biblical monotheism, where God has created everything, including the very structure we call "right". The point of this is that the secularist cannot enforce the division authority/autonomy—or religion/morality—on Our Religions when they say that God created human reason to be used. The religious figures Neiman says are using reason versus following God's will, would all respond, "But we were following God's will." Secularism needs a less caricatured version of religion.

Title: Thinkers in the New Secularism: Michael Hampson

Date: 2008-08-23T12:58:00.001-04:00

8/23/2008--Of course, not all the reaction to the New Secularism will come from secular writers. Religious writers have responded, and will continue to do so, to secularism. This process has been going on a long time, certainly since Dietrich Bonhoeffer. Some of this reaction comes from religious conservatives who basically condemn secularism. But some of it comes from religious liberals. I have been accused of not taking liberal religion seriously. It is true that I have found liberal religion passionless, vague, politicized and without transformative hope. That is why I am delighted to have finally read Michael Hampson's book, *God Without God*. I strongly recommend it to those Christians who have despaired of their tradition. The book begins with a chapter on God that establishes Hampson as metaphysically modern. Secularists who read him will find no defense of the impossible or improbable. But they will find mystery. The rest of the book is a serious, but accessible, study of Christian thought: Ethics, Bible, Creed, Prayer, Community and Eros. Hampson is both more radical than almost anyone else and at the same time curiously traditional. In his hands, the revolution that Jesus represented comes to life again. And it happens at the level of thought, not feeling. For those looking for intelligence in religion, this is the book.

Title: More on Michael Hampson

Date: 2008-08-24T10:24:00.001-04:00

8/24/2008--I was re-reading yesterday's post and felt I had to add a short note. The book, *God Without God*, is as good as I wrote. But the question is, for all its accomplishment, can the book work? That is, can monotheism as we know it in the Bible and the Qur'an, really survive the loss of the supernatural? C.S. Lewis thought the answer to that question was, no. I'm inclined to agree. And even Michael Hampson seems to stumble over the resurrection. I don't want to prejudge the matter. Maybe in fifty years, long after I'm gone, secularism will be a thing of the past and people will be flocking back to church, synagogue, mosque and other places of worship. *Hallowed Secularism* answers my need today and, I assume, the needs of others now and in the future. If it does not work out that way, if institutional religion can really adapt, great. I just can't see it happening. Even the tradition teaches that you cannot put new wine in old skins.

Title: The Future of Secularism

Date: 2008-08-27T16:20:00.004-04:00

8/27/2008--There is a new openness on the part of secularism to religion. Secularism is growing in importance in the world. Despite the hopes of some religious figures, the current worldwide upsurge in religious fundamentalism no more spells the end of secularization than did the earlier wars of religion in Europe forecast a more religious civilization. Studies among the young show increasing rejection of organized religion. The question is not whether we are continuing to become more secular—we are—but what kind of secular society we are going to be. Our secularism may turn out to be religiously-oriented. Beneath the noise of Christopher Hitchens and the other New Atheists, a variety of secular thinkers are proposing a new, and friendlier, relationship between religion and secularism. In philosophy, Jurgen Habermas (*Between Naturalism and Religion*), Susan Neiman (*Moral Clarity*) and James C. Edwards (*The Plain Sense of Things*) are describing a secularism open to religious insights. In science, Simon Conway Morris (*Life's Solution*) and Stuart Kauffman (*Reinventing the Sacred*) are expressing openness to the transcendent. Even in religion itself, a kind of secularism is emerging in the work of Michael Hampson (*God Without God*) and John Shelby Spong (*Jesus for the Non-Religious*). There are many other examples of this trend. In politics too, the old lines of secular/religious hostility are blurring. The Democratic Party is determined to gain some lasting support among religious voters. Its candidates are speaking the language of faith and are eschewing strict separation of church and state. The Democratic Convention in Denver is clear evidence of this. Obviously, my contribution to this trend is the book *Hallowed Secularism*, which will be published in March. And, of course, this blog. What surprises me is that a tendency I thought was unnoticed has, in the short time in which I was writing the book, become a clear trend. As with *American Religious Democracy*, my earlier book, my thinking seems to go almost instantaneously from outrageous speculation to obvious cliché.

Title: Politicized Religion

Date: 2008-09-03T05:38:00.003-04:00

9/3/2008--The reactions to the announced pregnancy of Governor Palin's daughter, Bristol, shows the danger of politicized religion and justifies the secular critics of religion in the public square. Speaking about the left, I have criticized this kind of religion as the Democratic Party Platform at prayer. Now we see the same thing on the right. James Dobson, Chairman of Focus on the Family, reportedly said something like, "Being a Christian doesn't make you perfect" in instant justification of Governor Palin and her daughter. Nice sentiment, but he did not say this about John Edwards' adultery, as far as I know, nor would he and his ilk say the same thing about the pregnancy of an Obama daughter out-of-wedlock. The difference for him, of course, is that Palin is a Republican and thus on his "side". This makes the Gospel, which has no sides of this kind, into a laughingstock. It allows the world to laugh at the hypocrisy of the followers of Jesus. This applies as well to Ms. Palin's decision to keep the baby and marry. Seventeen-year-old kids should not be raising babies. It's no good for them or for the baby. And there are many thousands of loving couples in this country who would be happy to adopt this child. This marriage is a terrible example and is going to inspire a lot of broken lives.

Title: Thinkers in the New Secularism: Stuart Kauffman

Date: 2008-09-05T08:29:00.002-04:00

9/5/2008--One of the most exciting developments in the New Secularism, which is the term I use for the growth of a religiously hungry secularism in the world and in which Hallowed Secularism will play a role, is the growing connection between science and religion. One of the best voices in this area is Stuart Kauffman, whose 2008 book, *Reinventing the Sacred: A New View of Science, Reason, and Religion*, I have finally received (it had been lost in the mail by Amazon). Kauffman's major points seem to be to describe the universe—reality—as “ceaselessly creative”. Creativity here means that the goal of a certain kind of scientific viewpoint to reduce all phenomena to matter in motion is in principle unattainable. In other words, physics cannot predict biology. Kauffman conceives of this change in scientific understanding in quasi-religious terms: “One view of God is that God is our chosen name for the ceaseless creativity in the natural universe, biosphere, and human cultures.” There is much more to say about Kauffman, and I will return to him in latter posts, but for now his significance is that he bridges the gap between the science-oriented secularist and religion. I mentioned in a post back in June that Michael Shermer, the publisher of *Skeptic* magazine, has written about Kauffman's book in respectful tones and has considered the possibility that secularists who have closed off religious vocabulary may have lost something crucial. Science is where it is at in this culture and increasingly in the world. When religion has a problem with science, religion suffers. But when science begins to sound in a religious key, there is the potential for important cultural change.

Title: Victory in Iraq

Date: 2008-09-07T07:56:00.002-04:00

9/7/2008--Hallowed Secularism is strictly non-partisan. But, of course, I am not. I am a liberal Democrat. My post today is not meant to be partisan, but its implications clearly are. We are hearing about victory in Iraq. Certainly the surge worked and the security situation in Iraq is greatly improved. But whose victory is this? The answer is first the Iraqi people. They are rid of Saddam Hussein. Unfortunately, the next winner is not the United States or Israel. The winner is Iran. What is emerging in Iraq is a stable pro-Iranian Shiite government. This is "victory". But it is a victory that harms U.S. interests and weakens Israel. We did Tehran's dirty work in ridding Iran of a Sunni enemy in their backyard. A strengthened Iran now supports Hezbollah and Hamas and threatens to build a nuclear weapon. That is why this war was such a terrible mistake. The Bush Administration expected something else. They expected a secular liberal Iraq that would make peace with Israel, be friendly to the West and demonstrate a tame form of Islam. They failed, and they did so at great cost. And the fact that John McCain cannot see this, the same John McCain I have always so admired, shows why fighter pilots don't always make good Generals. The irony of all this is that the kind of Iraq the Bush Administration hoped for could still one day happen. What Iran lacks is real democracy. That is why the wishes of the people there are only imperfectly reflected in their government's policies. But, in contrast, Iraq probably will evolve a real form of democratic life. In the short run, as with the election of Hamas, the result may harm the U.S. and its friends. But, in the longer run, something new may emerge. The Iraq war will still have been a terrible mistake. But even mistakes can have unpredictable consequences.

Title: Jeffrey Stout: The Folly of Secularism

Date: 2008-09-09T22:14:00.003-04:00

9/9/2008--The most recent issue of the Journal of the American Academy of Religion—September, 2008—brings a short piece by Jeffrey Stout titled in part “Presidential Address”. So, I guess he is the current or past President of the organization. The rest of the title is “The Folly of Secularism” and in it Stout criticizes secularists for trying to exclude religion from the public square. Stout treats Richard Rorty, Mark Lilla, Sam Harris and people like that as representative of the views of secularists about religion. Stout even states baldly that “[s]ecularism comes in many forms, but what they all have in common is the aim of minimizing the influence of religion as such.” Stout’s perspective seems remarkably out-of-date for so influential and accomplished an academic. As readers of this blog know well, there is a renaissance of religiously tinged secularism going on. What about Jurgen Habermas (*Between Naturalism and Religion*), Susan Neiman (*Moral Clarity*) and James C. Edwards (*The Plain Sense of Things*), who are describing a secularism open to religious insights? What about scientists like Simon Conway Morris (*Life’s Solution*) and Stuart Kauffman (*Reinventing the Sacred*) who are expressing openness to the transcendent? I intend to contact Stout and try to enter into dialogue with him about Hallowed Secularism. It would be helpful if the people with the most to gain from rapprochement between religion and secularism, like Stout, would recognize the beginnings of new trends in secularism. It is by no means the case that all secularism aims to minimize the influence of religion.

Title: Governor Palin and Abraham Lincoln

Date: 2008-09-12T07:00:00.002-04:00

9/12/2008--This has been a religion saturated Presidential campaign so far, as predicted by my book, American Religious Democracy. Unfortunately, as it has unfolded it has only hardened the secularist view that such mixing of church and state is a mistake. Governor Palin's brand of Christianity plays in a very partisan way in this context, obscuring both the easy-going religion of Senator McCain and the inclusive approach of Senator Obama. (I don't even know anything about Senator Biden's faith. Has anyone heard from him recently, by the way?)

The religious edge to the campaign ramped up a little over the "Is God with Us or are We with Him?" controversy. Governor Palin earlier had seemed earlier to say that God is on our side in the Iraq War. In her first national television interview she said that that had not been her intention. She had meant what Lincoln had once said, "'Let us not pray that God is on our side in a war or any other time, but let us pray that we are on God's side.' "

Probably Lincoln's most concentrated reference to the purposes of God, and certainly his last, occurred in the Second Inaugural Address on March 4, 1865—a little over a month before his death. In the Address, Lincoln began by comparing the two sides in the Civil War:

Both read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged. The prayers of both could not be answered. That of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offenses; for it must needs be that offenses come, but woe to that man by whom the offense cometh." If we shall suppose that American slavery is one of those offenses which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offense came, shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord are true and righteous altogether."

We should notice that Lincoln's God does not seem to have a side. The most one can intuit is that perhaps both sides in the war are suffering because of a great national injustice. Would we dare to say today that though our enemies are acting immorally, as Lincoln certainly was suggesting about slavery and the South, yet the judgments that come, including the terrible attacks of 9/11, are judgments for our injustice as well? Have we as a nation done enough to bring peace in the Middle East or have we instead contributed actively or by indifference to the continuation there of violence? That is the kind of question Abraham Lincoln would ask.

I doubt anybody in our current political context is really ready for Abraham Lincoln.

Title: Secular Hostility to Religion

Date: 2008-09-15T14:28:00.000-04:00

9/15/2008--Two recent stories highlight the reflexive opposition by some secularists against any public appearance of religion. One story is the continuing fallout over the recent decision by the Pittsburgh Post-Gazette to distribute New Testaments in its Sunday advertising section based on a contract with a Christian group. The 9/14/2008 letters to the editor included one letter cancelling a subscription to the paper, calling the decision "appalling". I can understand a religious person objecting to this Bible delivery. What does the religious believer do with the holy book of another religion? How can you respectfully get rid of it? Or, who wants a book of idolatry? All of this is presumably why the paper allowed people to opt out of the delivery with a phone call. But why would a secularist care about receiving a New Testament, especially in a tone that suggests that a newspaper should have known better? What is the problem? Specifically, why is receiving a Bible offensive, or at least more offensive than getting an unwanted bottle of shampoo? Why not just throw it away? I think the underlying problem is secular hostility against religion and an insistence that religion should be kept private, maybe even secret, like a vice. We see a similar kind of secular hostility in a story reported in the Pittsburgh Jewish Chronicle on September 11, 2008 about the eruv confrontation in Westhampton Beach on Long Island. A small group of Orthodox Jews asked Village authorities for permission to erect an eruv around all or part of the town. (An eruv is a symbolic suggestion of a fence, usually placed on telephone polls, always more or less invisible to the casual observer, which under Jewish law allows some carrying of objects on Shabbat, specifically allowing the carrying of children to synagogue). Secularists, many of them Jews, have objected to the eruv on two grounds: first that providing such an aid to Orthodox Jews is a violation of the separation of church and state, which is clearly mistaken at least in terms of the caselaw (a number of municipalities, including Pittsburgh provide aid in erecting eruvs), and the fear that once the eruv is erected, many Orthodox Jews will move in and change the tone of Westhampton. This secular response seems mean. But it is all part of the seeming fear that religion is gaining strength. Secularists should relax. They are in fact the inevitable future.

Title: Pulpit Freedom Sunday

Date: 2008-09-17T09:40:00.001-04:00

9/17/2008--According to the AP, there is currently a controversy in which the Alliance Defense Fund, a conservative legal organization based in Arizona, is signing up churches to give expressly political sermons on September 28, dubbed "Pulpit Freedom Sunday", in order to challenge as unconstitutional the current ban on tax exempt organizations endorsing candidates for public office. In response, the Rev. Eric Williams, a minister with the liberal United Church of Christ is planning to file a complaint with the IRS against Alliance, claiming that endorsement of candidates would violate the separation of church and state. Actually, the ban on expressly political tax exempt organizations is plainly constitutional, but this issue has nothing to do with the separation of church and state. Churches obviously have the same constitutional right to endorse political candidates as any other organization or citizen. On the other hand, churches do not enjoy tax exempt status because of the Constitution. It would be perfectly constitutional to tax churches and to deny charitable deduction status to contributions made to them. They get their tax exempt status only because they qualify under federal statutory law. In return for this benefit, they give up the same constitutional right to endorse political candidates that every non-religious tax exempt organization does. The challenge to the politics ban is the same whether brought by a church or by the Red Cross. Either way, the challenge loses. Since this is purely a statutory matter and not a constitutional one, you and I are free to reconsider the policy at any time. Would it be a better world if tax exempt organizations could endorse political candidates? I doubt it. Would churches be more honest if they gave up their tax exempt status and engaged in politics expressly? Maybe. But I don't see many religious organizations making that decision.

Title: Who Lost Ukraine?

Date: 2008-09-19T17:18:00.002-04:00

9/19/2008--Lost amid the catastrophic economic news is some potentially far worse news: according to a Washington Post story I read in the Pittsburgh Post-Gazette on Wednesday, 9/17, the pro-western coalition in Ukraine has collapsed and may be replaced at least in part by a more pro-Russian government. Why is this so bad? In part this collapse was caused by the mounting anti-Russia enthusiasm among Senator McCain and his team, including elements in the Bush Administration. After the invasion of Georgia by Russia, McCain talked tough. Governor Palin talked even tougher, not shying away from the suggestion in an interview that the US might respond militarily to further adventures by Moscow. Vice President Cheney traveled to Kiev, the capital, a few weeks ago and urged a united response to the Georgia invasion. I was assuming that no one was taking any of this talk seriously. We are not going to war with Russia because Russia has thousands of nuclear weapons aimed at us and it would be suicide for humanity. We did not go to war with the Soviet Union when our two nations genuinely threatened each other's existence. Ronald Reagan did not openly fight the Soviets in Afghanistan for this reason. He armed the mujahidin with Stinger anti-aircraft missiles, instead. We are not going to war with Russia over Georgia or Ukraine. Now I am beginning to wonder. Is the Republican brain trust so used to attacking nations like Iraq that cannot directly hit back that they have forgotten what real war is like? Even bombing Iran is a choice we can make if we want. But we cannot fight Russia. Even thinking along this line is madness. Apparently the Ukrainians are not as nuts as we may be. Faced with pressure from the US to resist Russia, but without any practical military support being offered (we are bogged down in Iraq even if we wanted to respond), the people of Ukraine may have decided to make their peace with Moscow. The invasion of Georgia was certainly a violation of international law and a horrendous precedent. But as the world learned from our invasion of Iraq, great powers can do such things. The response to restrain Russia has to be more subtle, like that of Ronald Reagan in Afghanistan, not saber-rattling we could never back up.

Title: The Bailout is Socialism

Date: 2008-09-21T08:00:00.001-04:00

9/21/2008--Last spring, when Democratic candidates for President could still propose universal healthcare, I kept reading that such proposals were "socialism". Well, now we have a proposal for the nationalization of the housing market and I am not hearing a thing. The bailout is a terrible policy that may well not work. If it is necessary because of an emergency that requires that something be done, it just shows that the people who were running the show, from Greenspan to President Bush, did a terrible job of policing the market. The bailout is a terrible policy for all the usual reasons. First, the collapse of housing prices is a capitalist necessity since there had been a bubble in prices. The bailout may just prolong the economic downturn since owners may now wait to sell rather than taking their losses and reorienting the market. Second, the bailout is aimed at companies that either made a lot of money inflating housing prices or at least tried to. So, why should they not take their losses? It's socialism when you want national healthcare, but it's a necessity when they don't want the consequences of their actions. Finally, the bailout is being financed by more borrowing. There will be no surcharge on the wealthy to pay for it. Your grandchildren will pay for our errors. The economics of Hallowed Secularism will undoubtedly be market oriented. The market works well as a general matter. But, the market must always be regulated. And it cannot run on debt. The best thing Bill Clinton did was balance the budget. The real necessity is that we begin to pay our own way again.

Title: Excerpt from For the Establishment of Religion

Date: 2008-09-23T17:35:00.003-04:00

9/23/2008--The growth of secularism is the final aspect of consideration of "one nation under God" in the Pledge of Allegiance. Religion has been dominant for a long time and continues to exert a strong political influence in American elections. Secularists may be excused therefore if they push back against religion every chance they get.

But this period of religious domination is ending. It is either already necessary to think about the needs of a secular world, or it will soon be so. My purpose in insisting on the use of the word God, and other instances of religious symbols and language, is to keep a certain kind of cultural space open. This is akin to what Judge Ferdinand Fernandez wrote in his partial dissent in the Ninth Circuit in the Elk Grove case. Removing the word God from public expression, "remove[s] a vestige of the awe all of us, including our children, must feel at the immenseness of the universe and our own small place within it, as well as the wonder we must feel at the good fortune of our country."

This is not a concern only for religious people. Susan Neiman has written that the Enlightenment created natural religion, and used the term God, to "express[] the breath of wonder that the age of Enlightenment exhaled."

It may be true that we do not need religion to experience reverence for existence. But if that is true, it is because we have the example of religion. I am afraid that prematurely jettisoning religious language, including the word God, might expose humankind to profound demoralization.

I have seen suggestions of such demoralization. In September 2008, the American physicist Steven Weinberg wrote in The New York Review of Books about "the question of how it will be possible to live without God"[3] He admitted that living without God is not easy. He offered humor and the ordinary pleasures of life. But Weinberg acknowledged that "the worldview of science is rather chilling."

"Not only do we not find any point to life laid out for us in nature, no objective basis for our moral principles, no correspondence between what we think is the moral law and the laws of nature, of the sort imagined by philosophers from Anaximander and Plato to Emerson. We even learn that the emotions that we most treasure, our love for our wives and husbands and children, are made possible by chemical processes in our brains that are what they are as a result of natural selection acting on chance mutations over millions of years. And yet we must not sink into nihilism or stifle our emotions. At our best we live on a knife-edge, between wishful thinking on one hand and, on the other, despair. "

Other scientists do not agree with Weinberg about the implications of the scientific worldview. I am quoting him not because I think he is right about that, but merely to demonstrate the stakes that he acknowledges in living without God. Living without God is no doubt the direction in which we are headed. But we should not rush ahead without careful preparation. We may eventually have adequate substitutes for expressions like “one nation under God.” But we do not have them yet. Until we do, we are better off reinterpreting the language we have to offer the deepest and most inclusive reality we can yet express.

Title: No, You Don't Live an Exemplary Life

Date: 2008-09-26T08:41:00.001-04:00

9/26/2008--Steven Weinberg, Nobel Laureate in Physics who teaches at the University of Texas, recently wrote a piece in the New York Review of Books (September 25) on living without God. This is the same Steven Weinberg whom Stuart Kauffman identifies in *Reinventing the Sacred* as a leading apostle of reductionism. Kauffman quotes Weinberg's "two famous dicta": "The explanatory arrows always point downward [to physics]" and "The more we comprehend the universe, the more pointless it seems." It appears that Weinberg trots out the same article every once in awhile, and he has certainly done so in the NYR. I responded to Weinberg in a letter to the editor and if the magazine does not publish it, I will post it here. But there was an odd sideline to Weinberg's piece that bears noting now, in the season of the Jewish High Holy Days coming next week. Weinberg wrote the following in the article: "I do not think we have to worry that giving up religion will lead to a moral decline. There are plenty of people without religious faith who live exemplary moral lives (as for example, me), and though religion has sometimes inspired admirable ethical standards, it has also often fostered the most hideous crimes." Was Weinberg kidding? I hope so. Certainly it is true that religion has inspired and does inspire horrendous crimes. But who lives an exemplary moral life? Weinberg? You? Me? Exemplary means, according to my computer, "so good or admirable that others would do well to copy it." Weinberg does not mean that. He just means, as secularists usually do when they say they do not need religion to lead a good life, that he has not killed anyone or robbed a bank. This is the dumbing down of secular morality. Weinberg has not led an exemplary moral life. Just like the rest of us, he has lived a life of self-interest in which he has harmed many people and has almost always put himself first. I say this without knowing Weinberg, because it is true of all of us, including religious people. It is called sin, original or otherwise. If you want to see an exemplary moral life, read the parable of the good Samaritan (Luke 10:25.). When you find someone like that, call me. Two points should be made here. First, we do need religion to live moral lives. We need the examples of saints even to live moderately well. Second, we need forgiveness. It is destructive to think of ourselves as good. It is bad for individuals and disastrous for nations. Judaism is good about these points. They are at the heart of the High Holy Days.

Title: Repentance

Date: 2008-09-28T06:01:00.002-04:00

9/28/2008--As I enter on the High Holy Days this year, perhaps my first as a bona fide secularist and not a Jew, I see the importance of religion more than ever. When critics of religion, such as Christopher Hitchens and the other New Atheists, talk about it, they emphasize empty ritual, absurd beliefs and violence. But the two aspects of religion they do not mention are the shape of history and forgiveness of sin. Every religion gives an account of what history means. What is important about this is not so much the account as the significance of the question. Religion makes it hard for us to live without thinking about what our lives mean in the larger picture. Of course, at the season of the High Holy Days forgiveness of sin is the primary mode of thought. I know already that secularism does not even contain this category. To seek forgiveness of sin is first of all to acknowledge how far we live from holiness, or authenticity if you prefer the non-religious sounding term. John Dewey might say to remember yourself at your very best, that is, most generous, loving and brave, and then measure your meager everyday living. This is sin. To seek forgiveness also means to seek it from outside oneself. Some people think we forgive ourselves too readily. I think, instead, we can hardly forgive ourselves at all. In either case, we cannot be the source of forgiveness. Nor can other human beings be the source of forgiveness. The Jewish tradition requires that we seek forgiveness from those we have wronged (though I rarely see that practiced and I don't practice it). But the focus is on forgiveness from God. Human forgiveness is treacherous. It can be just another form of violence. The secularist does not have a God to grant forgiveness. If I could make one change in secularism it would be to convince my fellow secularists that forgiveness of sins happens. One must only ask with penitence. How this could be possible since there is no God, I do not know.

Title: Religulous--Are People Killing Each Other Over Religion?

Date: 2008-10-02T10:26:00.000-04:00

10/2/2008--I saw a review of the new anti-religion documentary Religulous that seemed to suggest that people kill each other over differences in religious doctrine. The movie opens tomorrow, so I have not seen it. But Bill Maher is quoted as saying that "religion is one day going to get us all killed." This view that conflicts in the world today are "religious" seems to me to be mistaken as to the nature of the conflicts. When a Palestinian says, for example, "the Jews stole our land," it may sound like a theological conflict. But it is a conflict over land. Such a statement is similar to a saying by a native American that "Europeans stole our land." Conflicts like these are not over dogmas. As to conflicts over dogma per se, all three monotheistic religions—Judaism, Christianity and Islam—agree that coercion can never be used to promote belief. It is not the case that Muslims are willing to kill Christians because Christians believe Jesus is God. It is true that many Muslims consider this belief a profound and horrible error. But Jews also consider this belief an error. Yet no Jews are killing Christians over it. I don't mean that there has not been interreligious doctrinal violence in the past. There has been. For example, the Inquisition was just such coerced conversion. But this is not our problem in the world today. There is religious violence today, but it tends to be religious oppression of members of one's own group. For example, Muslim women are oppressed in some Muslim countries. And there is also discrimination without violence. Gays are discriminated against in America for religious reasons, for example. But these issues are not what Maher is pointing to. He is suggesting that the great international conflicts of our time are religious in nature. About that he is simply mistaken.

Title: Biden's Take on the Wall of Separation

Date: 2008-10-04T11:30:00.002-04:00

10/4/2008--Amy Sullivan posted a comment on the Time Magazine website on Thursday discussing Senator Joe Biden's response to Katie Couric's question about the wall of separation between church and state. Biden told Couric that the purpose of the wall is "to keep government out of religion." Fair enough. But Biden said something quite different at the beginning of his answer: "The best way to look at it is to look at every state where the wall's not built. Look at every country in the world where religion is able to impact the governance. Almost every one of those countries are in real turmoil." I don't think that any American wants religion to impact "the governance," at least not in the formal sense that clerics have governmental authority as in Iran, or that religious institutions have a formal role in the government. There have been very few cases that even raise issues like that. In *Larkin v. Grendel's Den Inc.* (1982), the Supreme Court struck down a Mass. law that gave churches and schools a veto over liquor license applications within five hundred feet on the ground that religious institutions could not be given government authority. This line of cases is not very controversial today and has nothing much to do with whether the words "under God" should remain in the Pledge of Allegiance. On the other hand, no one denies that religion can legitimately impact "the governance" in the general sense that religious beliefs influence the policies that people want to see followed. Many Catholics followed the Bishops in opposing the end of welfare, for example. Other religious believers oppose gay marriage on the ground that the Bible forbids it. Biden's words make me wonder just what he thinks the Establishment Clause means. And I wonder the same thing about Senator Barack Obama.

Title: Secularists Need Yom Kippur

Date: 2008-10-09T07:14:00.001-04:00

10/9/2008--Since I don't consider myself Jewish anymore, I don't go to services. But I make two exceptions. I attend services for the High Holy Days and do something at Passover. These are two Jewish holidays Hallowed Secularism will need to reinvent. Last night was Kol Nidre, the opening of Yom Kippur, the Day of Repentance. This holiday comes at the end of a ten-day period beginning with Rosh Hashanah. During the entire period, Jews engage in intense self-questioning. On Yom Kippur, this process achieves a unique intensity as a total fast amounting to 25 hours combines with haunting melodies and an impressive atmosphere. The entire period of the High Holy Days is known in Hebrew as the Days of Awe. I find it impossible not to be changed by this process. Without it, or something like it, any secularism is doomed to shallowness and self-satisfaction. Secularism today has a great deal of trouble with its view of the human condition. It fluctuates between accounts of pure selfishness—the Selfish Gene by Richard Dawkins, for example or the basic model of economics—or the false human heroism of Romanticism and Existentialism. Religion does much better. The model of people on Yom Kippur is, “we all do evil, but we can repent and do better in the future, and we will.” This is a beautiful message and strangely self-fulfilling. If you believe it and practice it, it can become true. The Jewish practice always brings new insight. Last night I realized for the first time that not only is my sin personal—the usual litany of callousness I won't bore you with—but also social. I live comfortably in a world in which other people suffer. Thousands starve to death every day. And this remains so no matter what I do. I can give more money to good causes, or even give up my life and work among the poor. They will still starve and I will not. And even if the world gradually improves its social and economic arrangements, as I believe we will, a similar structural evil will always remain. This is, as the Christians say, a fallen world. I can do something. I can repent. And I can promise—to the mystery of existence—that I will do better this year. For this I can thank Yom Kippur.

Title: Governor Palin Should Resign from the Ticket

Date: 2008-10-11T08:53:00.001-04:00

10/11/2008--Would a President John McCain order an IRS audit of your taxes if you offended a member of his family? Of course not. John McCain once chose torture over betrayal of his office. How about a President Joe Biden? No. Biden has been purified by personal tragedy. Such an act is not in him. What about a President Barack Obama? This question is why the Republican ad "Who is Barack Obama?" raises a legitimate question. The campaign is a smear not because it asks an unfair question but because its innuendos go beyond any facts in the record. Would a President Sarah Palin order an IRS audit? She has already done something quite like it. According to an investigation conducted for the Alaska legislature, Governor Palin abused her office by pressuring subordinates to fire her brother-in-law because of his divorce and custody battle with her sister. This investigation was no political hatchet job. It was set in motion by a Republican majority legislature before Governor Palin was a candidate for national office. For once, it is just the truth in the midst of a political campaign. I don't like enemies lists. Such a list was the worst thing about President Richard Nixon. I don't like enemies lists on college campuses, let alone in the most powerful office in the world. Senator McCain should choose someone else.

Title: Netroots Nation Comes to Pittsburgh

Date: 2008-10-14T13:42:00.001-04:00

10/14/2008--I've just seen that next August the Netroots Nation Convention will be held in Pittsburgh. This is very exciting. The face of—mostly—young progressive politics. I have looked at the Agenda and I have a suggestion. One important question for the political left is the question of religion and secularism. I don't just mean the separation of church and state, though that is part of it. I mean, what is the role of religion among a mostly secular political group. There will be progressive believers at the convention, of course. There is even a session entitled, "Whatever Happened to the Religious Left". The more aptly named session would be, "Must We Continue to Pretend We Care About What Happened to the Religious Left?" [The answer to that question is yes, because otherwise word would get out.] What, if anything does religion have to teach people who are not religious? The honest answer right now by most progressives would be nothing. But is it the correct answer? This is the question of the future of secularism. Can a genuinely secular politics be sustainable? Marxism was not really secular. Its religious roots were just disguised. Classic liberalism was an Enlightenment philosophy and thus assumed Christianity as backdrop. We don't actually know whether a secular politics can work. Hallowed Secularism aims to fill the gap between religion and progressive politics. It represents religious belief without dogma and hierarchy. But it would still be too religious for many.

Title: The Capture of the Protestant Right by Capitalism

Date: 2008-10-16T12:18:00.002-04:00

10/16/2008--It is no secret that the hierarchy of the Catholic Church wants pro-life candidates to win elections. But that is not entirely partisan—there are pro-life Democrats—and it is driven by an undeniably religious commitment. But what is one to make of the pro-capitalism position of the conservative Protestant movement? I just read the October 18-25 issue of World Magazine, which is a news magazine from the Christian perspective. The issue emphasized the financial crisis. From just reading the magazine, you would have thought our major economic problem was Bernie Frank pushing Fannie Mae to help poor people get into houses they could not afford. There is nothing that I read about the deregulation philosophy of the Republican Party in general or the particular decision to exempt mortgage derivatives from the jurisdiction of the SEC. Here is a report about that action that I found on the Internet: "McCain's former economic adviser is ex-Texas Sen. Phil Gramm. On Dec. 15, 2000, hours before Congress was to leave for Christmas recess, Gramm had a 262-page amendment slipped into the appropriations bill. It forbade federal agencies to regulate the financial derivatives that greased the skids for passing along risky mortgage-backed securities to investors." This is not just a question of difference of opinion about politics. Why does World Magazine, and why do many conservative Christians, assume that low taxes and small government are an expression of the Gospel? These may be good policy or bad, but they are not Jesus' policy. As Bill McKibben has pointed out, Jesus never said, "God helps those who help themselves." It was Benjamin Franklin.

Title: The Anti-Voter Conspiracy of the Republican Party

Date: 2008-10-18T10:59:00.001-04:00

10/18/2008--Misidentification on voter applications is not voter fraud and is not a crime. The crime requires criminal intent, for example the intent to sign up someone who is not eligible or voting twice in one election. I know nothing about ACORN but I doubt very much that the organization has engaged in any criminal activity. Why would they when there are so many eligible poor people who are not registered and do not vote? Yes, ACORN uses "felons" to sign up voters. Why not? It's an honest job. It's not as if people are being threatened if they don't want to register. These investigations of Acorn are simply intended to intimidate poor people into not voting. Over recent years, the Republican Party has apparently come to the conclusion that they cannot win elections if all Americans vote. Therefore, they have cynically engaged in a conspiracy to restrict voting by groups they consider hostile, such as young people, poor people and people of color. This is why we now hear about "voting fraud", though in fact there isn't much, if any. In fact, some of the Republican U.S. Attorneys were fired because they refused to go forward with voter fraud cases they considered lacked evidence of criminal activity. Usually, I consider partisan differences to be simple disagreements among people of good faith. Not in this instance. These efforts by the Republican Party remind me of efforts in the 19th century in the Old Confederacy to purge the voting roles of black voters—efforts which succeeded. In one case I teach in Criminal Law, Alabama prosecuted a man for the felony of illegal voting in 1875 when the evidence showed he honestly believed he was of age. Fortunately the court required proof of knowledge that one was illegally voting to be guilty of the crime. [Gordon v. State] The Post-Gazette reported today on a lawsuit by the state Republican Party against the Pennsylvania Department of State and ACORN alleging fraud. They want Acorn to pay for ads telling people they must bring identification before they vote. This is a requirement but it is often ignored. What is this except a warning not to vote? The Republican Party is making a mistake. When you are afraid of democracy, you have no future.

Title: The Jews and the 2008 Election

Date: 2008-10-20T14:12:00.002-04:00

10/20/2008--Mackenzie Carpenter wrote a story in the Pittsburgh Post-Gazette on Sunday with the headline, "Democrats' usually reliable Jewish vote up for grabs". The story was not about polls but was an impressionistic survey of what Jewish people in the Pittsburgh area are thinking about the election. I have seen similar stories elsewhere, in Florida for example. And I personally know Jewish voters who have usually voted for Democrats in the past but who are either undecided or considered at an earlier point voting for Senator McCain. [My sample is not large, but the people I know changed their minds about voting for McCain after he selected Governor Palin as his running mate]. These stories about the Jewish vote make another story, this one in the Pittsburgh Jewish Chronicle on October 16, seem all the stranger. There have been complaints that the Chronicle, usually strictly nonpartisan—the paper does not endorse candidates, for example—has covered Senator Obama's campaign more extensively than that of Senator McCain. Last Thursday's paper confirmed that this was in fact the case and claimed that the reason is that while the Democrats have aggressively followed up on invitations by the newspaper for interviews with national campaign representatives who have campaigned in the area, the Republicans have not done so, until very recently. It's an odd story. I'm sure that the Republicans will rectify this omission now in a hurry. But to a certain extent, the damage has already been done.

Title: Thinkers in the New Secularism: Chet Raymo

Date: 2008-10-23T11:47:00.001-04:00

10/23/2008--I just received copies of two books by Chet Raymo, Professor Emeritus at Stonehill College: *Honey From Stone: A Naturalist's Search for God* (1987) and *When God is Gone Everything is Holy* (2008). As you can see from the latter title, there is a certain affinity between Professor Raymo and *Hallowed Secularism*. I learn two things right away from Raymo's work. First, there is a great deal of new secularism that is closely connected to science and yet still has echoes, or more, of traditional religion. Raymo is in the religious mystic tradition, yet completely informed by modernity. This is one more surprising aspect of the future of secularism. That future is going to be quite from secularism's past. Second, *Hallowed Secularism*—my work—is much more biblical than I realized. Despite my own experiences, I am not a mystic. Indeed, I am close to the Old Testament. My books are searches for justice in history. Neither of those categories seems crucial to Raymo.

Title: There is no pro-life vote in this election
Date: 2008-10-24T16:22:00.001-04:00

10/24/2008--The controversy over the remarks by Duquesne Law School's former Dean, Nicholas Cafardi, and his activities on behalf of Catholics for Obama, led me to wonder whether there is a genuine pro-life vote that one could cast in this Presidential election. I should explain that I call myself pro-life, although I don't think the term really fits. I would like to see *Roe v. Wade* overruled and in theory I believe that life begins at conception, but I am completely inconsistent about these commitments. I would never want to see the law of homicide applied to pregnant women and doctors and I support exceptions to anti-abortion laws, such as the health of the mother, which make no sense if one really believes that life begins at conception. Nevertheless, I apply the term pro-life to myself because in the current political context, anyone who thinks the abortion decision is not a private one for the woman herself is obviously not pro-choice.

I concluded that there is not a pro-life vote one could realistically cast for President this November. There are only two choices possible for President. One is Senator Obama, who supports *Roe*. The other is Senator McCain, who does not say he wants to appoint Justices to overturn *Roe*, but says he will appoint "strict constructionists" and we are supposed to infer that such Justices will vote to overturn *Roe*. This is all bull, since the only way to overturn *Roe* is with a "litmus test" for Supreme Court appointments and I have no idea why the pro-life movement does not demand this pledge of McCain or any other candidate for the Presidency. The pro-life movement has never demanded any such thing.

Anyway, assuming that *Roe* is overturned, it is pure speculation whether even one single legal abortion would be prevented. Overturning *Roe* just puts the matter back on the states. Some states will support legalized regimes and others restrictive ones, but there is certain to be a constitutional right of travel and pro-choice money for anyone who needs it to get an abortion. I doubt even minors can be prevented from obtaining an abortion in such a regime. It is true that in a post-*Roe* world, abortion will be more inconvenient, and that might cause some women to not bother to get an abortion, but anyone that uncertain might as well have been convinced by serious pro-adoption advertising, with a lot less trouble. Even Obama might do that.

A pro-life vote would have to be for someone who would constitutionalize the right to life, either by interpreting the word "life" in the fourteenth amendment to include the unborn, which no Justice has committed to doing and which only Thomas would even consider, or federalizing the issue by constitutional amendment or a preemptive federal statute, which Senator McCain has not committed to doing.

I am not a single issue voter. Certainly, anyone who is should vote for Senator McCain over Senator Obama. Overruling *Roe* is not insignificant. But no one should think that a vote for McCain is really a pro-life vote.

Title: I love Jim Webb

Date: 2008-10-26T11:02:00.002-04:00

10/26/2008--I just read the June 26, 2008 New York Review of Books article by Elizabeth Drew about Virginia Senator Jim Webb. Drew was writing before Senator Obama selected Joe Biden for his running mate and she was openly rooting for Jim Webb. Why was Webb not the choice? Lots of perfectly good reasons, including Webb's views on women in the military. But probably more to the point, Obama wanted to reassure voters. Joe Biden is perhaps the most reassuring presence one could have. (This makes him sound like Cheney, who was selected for some of the same reasons—I hope the Biden choice turns out differently). It is hard to share the limelight. The apparently genuine partnership between President Clinton and Vice-President Gore was the exception, and even that relationship broke down during the 2000 election campaign. Senator Obama strikes me as much more of a loner than is the gregarious Clinton. That is not a criticism. Lincoln was a loner as well. But I don't think there will be partners in an Obama Administration. That will be ok with Biden. Possibly not with Webb. None of this will be of any interest, of course, if Senator McCain stages a historic comeback.

Title: Religulous Again

Date: 2008-10-27T10:33:00.002-04:00

10/27/2008--Now I have seen Religulous, Bill Maher's jeremiad against religion, and I loved it. I'm still thinking about the movie, but here are some impressions. First, Maher is a religious seeker, in fact he may be a hallowed secularist. For all his professed atheism, he appreciates religion. He calls his doubt a luxury. If he were in a foxhole, he would be a believer and he has called upon God in the past. Maher certainly loves Jesus, who functions for him as the gold standard of human behavior and comporment. If you were a Christian, you would want all Christians to care as much for Jesus as Maher does. Second, the biggest threats to human welfare that Maher identifies—nuclear weapons and pollution—are in no sense products of religious conduct. They are products of the secular reason Maher champions. Maybe religious people are willing to blow humanity up and endanger the planet because they believe in a "last day", but secularists have done, and are doing these things now, without such a justification. Americans actually dropped two atomic weapons. No one else has done so. Why blame religion? Finally, for now, there is nothing in the movie about how to live. Why should we sacrifice our own interests for the sake of others? The most moving scene in the movie is the crucifixion show at the biblical theme park in Florida. Maher wants to make fun, but the power of seeing good debased by evil speaks to us despite the silliness of the setting. Maher feels it too. He just does not want to admit it.

Title: The Federalist Society and Free Speech

Date: 2008-10-29T13:37:00.003-04:00

10/29/2008--The New York Times today contained an article by Charlie Savage about President George Bush's judicial appointments to the lower federal courts. The story highlighted a decision by the Eighth Circuit that South Dakota could force doctors to tell their patients who are seeking an abortion that abortions "terminate the life of a whole, separate, unique living human being" — using exactly that language. The doctors had argued that the law violated their right to free speech. The story then recounted how President Bush pointed to his record of appointments with pride at a conference sponsored by the Cincinnati chapter of the Federalist Society, characterized in the story as "the elite network for the conservative legal movement." I haven't looked at the decision and I don't know whether, for example, government funding is involved, but I can say that if this is an example of a decision popular with conservatives, then I have lost track of the principles of the conservative movement. As described in the story, the government is interfering with a private relationship of doctor and patient, and forcing the doctor to say what he or she might choose not to say in the context of that relationship. This sounds like precisely the kind of government paternalism and government tyranny that I thought the Federalist Society opposed. To me the decision represents a hypocritical sop to the Republican Party courtship of the pro-life movement. The decision seems completely unprincipled. I would have no objection if the government took out ads trumpeting exactly this message, a message incidentally that I agree with. But a doctor is not a government billboard. Whatever happened to liberty?

Title: John McCain versus Barack Obama

Date: 2008-10-31T11:38:00.001-04:00

10/31/2008--The story in the New York Review of Books by Mark Danner ("Obama & Sweet Potato Pie") reminds me just how much I admire John McCain and always have admired him. Do people remember that McCain said he would not use Reverend Wright against Senator Obama and that he has not done so? Try imagining any other politician sticking to such a pledge, including Obama, who once pledged to accept public campaign financing and then went back on it because it was no longer in his interest to keep his word. I can only hope that Obama is a moral man, unlike Presidents Bill Clinton and George W. Bush. But if John McCain were elected President, I would not have to wonder. McCain once chose torture over betraying his fellow men. But, of course, this is not an election between McCain and Obama. Even aside from everything else, voting for McCain would mean voting for Governor Sarah Palin and I know I do not trust her. The "everything else" is the system of governance that each candidate brings along. That system of governance under President Bush brought lies and division and disaster. That system of governance even today does not understand why invading Iraq was a mistake. It still does not see the wrong in torture. It still does not believe global warming. It still thinks government is the problem. It still does not want average wages to grow too much. And it still governs by stirring up hatred. That system has to go. John McCain does not buy into that governing system. In some ways he has been its most effective critic. He has also been its victim. But he never convinced me that he would be able to resist that system once he was elected. He never showed me that he could distance himself from its arrogance and aggression. I think if elected, McCain would be forced into all of that system's assumptions and actions. I'm voting for Obama.

Title: Religion and the 2008 Campaign

Date: 2008-11-02T18:06:00.003-05:00

11/2/2008--Now that the campaign is almost over, and whoever wins, we can ask whether religion played much of a role. The obvious answer is, no. Religion, and other related issues, like gay rights, were overwhelmed by the economic catastrophe that affected almost all Americans, indeed much of the world. The less obvious answer is, no, but because the Democrats did so much to take it out of play. All through the primaries and the election, the Democrats constantly referred to God and did everything to seem faith-friendly—except changing their positions on substantive issues, which they did not do. The unlikely answer, though still a part of the story, is of course. The religious right ultimately got a candidate of its own after all: Governor Palin. And Senator Obama lost many votes over the religion issue, whether on substance, the Muslim rumor or Reverend Wright. And the fight within the Catholic Church over the permissibility of supporting a pro-choice candidate was truly something awesome to behold. I'm certain many votes will still be cast on religious grounds in 2008. P.S. A recent comment asked whether I have any enthusiasm for Barack Obama. I do. Quite a lot in fact, though the task facing the next President is monumental. It's just that I have supported and admired John McCain for a very long time. I think in 2000 he would have made a better President than Al Gore. But not a better one than Barack Obama in 2008, for reasons related both to Obama and to McCain.

Title: Praying for Victory in this Election

Date: 2008-11-04T08:53:00.004-05:00

11/4/2008--I have been asked the following question: while the religious believer can pray for a good outcome today, what can the hallowed secularist pray for? This is my short answer: Let's assume that you believe in the God of the Bible. What would you pray for in terms of this election? It would be blasphemy to pray that God intervene and give victory to your candidate. After all, you might be on the "wrong" side or there might not be a "right" side (see Lincoln: we don't hope God is on our side but that we are on God's side). So, if you are a believer, you can only pray that you have been true to God, or have tried to be true, and that God have compassion on flawed humanity so that we don't get what we deserve. I think the hallowed secularist prays in precisely this way, except substituting for "true to God," true to that which most unifies all reality and hopes for compassion for all (See the Sh'ma, God is one).

Title: President Barack Obama

Date: 2008-11-04T23:08:00.001-05:00

11/4/2008--The work of Gettysburg has now come to completion and Abraham Lincoln can rest in peace at last.

Title: God and the Election of Barack Obama

Date: 2008-11-06T08:26:00.000-05:00

11/6/2008--Listening to comments of high school students concerning the election of Barack Obama on NPR this morning I was uplifted by their awakened hope for the future. Whatever you think of Obama, his election was something genuinely new and hopeful in the world. When the biblical scholar Walter Brueggemann described the core biblical understanding of God, he emphasized this sense of surprise: "The Old Testament insists that there is a moral shape to the public process that curbs the raw exercise of power. It equally insists that there is a hidden cunning in the historical process that is capable of surprise and that prevents the absolutizing of any program or power." This election is the kind of surprise Brueggemann was pointing to. I don't mean Barack Obama was sent from God. I mean that at the heart of reality, there is grace. We don't get what we deserve. Something wonderful and unexpected will often happen.

Title: Who Lost California?

Date: 2008-11-08T06:12:00.002-05:00

11/8/2008--The question is, who was at fault? Like many others, I was surprised and disappointed that Proposition 8 passed, thus amending the California Constitution and in effect overturning a State Supreme Court decision legalizing gay marriage in the name of that same Constitution. I would now like to name the guilty party who caused that result.

Part of the blame goes to the dishonest leaders of the Christian right who convinced many ordinary people that there was more to this court decision than merely allowing gay people to marry. They claimed that preaching against homosexuality would next be criminalized. But, of course, free speech remains free, free exercise of religion remains free and overturning gay marriage does not prevent legislation against hate speech. Proposition 8 had nothing to do with religious liberty and anyone who says otherwise thinks the gospel needs lies to support it.

Part of the blame goes to the majority of voters, who simply lacked sufficient compassion to recognize justice when it was right in front of them.

Part of the blame goes to whatever moron thought that the way to gain the right of gay marriage in California was through a court decision. Just as a practical matter, such a decision inevitably would be met by a proposed constitutional amendment. Why would anyone think that such an election would be easily won? Surely in California legislation less far reaching but less likely to set off a constitutional amendment could have been passed. Now California is stuck with a Constitution that will have to be changed again later.

Much blame goes to the California Supreme Court. That court struck down a state ban on same-sex marriage in a 4-3 decision in May, spurring the Proposition 8 campaign. Why don't State Supreme Courts notice that federal courts, already burned by *Roe v. Wade*, leave gay marriage alone? The State courts keep treating this issue as purely a legal one without considering what we in the law call prudential matters—are people ready for it? Will the legal arguments be persuasive? What will happen next? Even the terms of court decisions make a big difference. A court can strike down a statutory ban on gay marriage but leave the decision in abeyance until the legislature can deal with it, leaving open all kinds of compromises, such as civil unions, differing terminology etc. Justice Scalia once said that *Roe* did not really aid abortion rights in the long run because it nationalized what had been building state by state compromises on abortion and created the pro-life movement. Courts are better threats than actors and judges should remember that.

Okay, the actor, actually actors, who are most to blame for Proposition 8 are the nation's law schools, for failing to teach an organic constitutionalism that recognizes that governance is never just a matter of principle. Law is not a science but an art. And a Constitution does not belong to lawyers but to the people. Its interpretation must always ultimately remain their interpretation. Courts can only lead.

11/11/2008--In her science fiction classic, *The Dispossessed*, Ursula K. LeGuin describes the trip of a physicist from an anarchist planet to a more Earth-like planet. On the trip, the physicist, Shevek, asks the ship's doctor why a crew member seems to dislike him. "[I]t's religious bigotry", replies the doctor. The crew member belongs to a religious group and consider Shevek a "dangerous atheist" because "there's no religion," that is, "established religion—churches, creeds" on Shevek's planet. Shevek is surprised. "No religion? Are we stones...?" But Shevek figures it out. "You admit no religion outside the churches, just as you accept no morality outside the laws." Shevek says there is religion on his planet. The Fourth Mode—religion—is one of the "Categories". Few people practice all the Modes. "But the Modes are built of the natural capacities of the mind, you could not seriously believe that we had no religious capacity? How could we do physics while we were cut off from the profoundest relationship man has with the cosmos?" In America, and indeed much of the West, we make the same mistake the crew member made. We imagine that secularists are without "religion" just because they are without churches. Our law of church and state is even based on this strange idea. That is why we say government must be neutral about "religion" when we should mean merely that government should be neutral about the different churches. But in America, unlike Shevek, even the secularists imagine they are outside the religious sphere. There are even atheist voices that argue against "religion" and fail to distinguish good religion from bad. One cannot be without religion—or at least a lot of suppression is needed to try. And as Shevek explains, religion as a category is not anti-science.

Title: The Fight Over Christmas

Date: 2008-11-13T15:24:00.001-05:00

11/13/2008--Recently, the media have reported on the planned Washington D.C. bus advertising campaign by the American Humanist Association. The ads will proclaim, "Why believe in a God? Just be good for goodness sake." The ads contain a link to a humanist website. The ads brought the following response from American Family Association President, Tim Wildmon, "It's a stupid ad. ...How do we define 'good' if we don't believe in God? God in his word, the Bible, tells us what's good and bad and right and wrong. If we are each ourselves defining what's good, it's going to be a crazy world." The AFA has its own "It's OK to say Merry Christmas" campaign going. As a nonbeliever, I think Mr. Wildmon missed a great opportunity. Forgetting the Bible for a minute—for after all, the Bible does not speak at all clearly on most issues that confront us—the humanists would probably agree with him that goodness is an objective standard not dependent on human will. Once upon a time, nonbelievers confronted the implications of relativism, but my impression is that today's humanists do not. Even the tone of the proposed ad suggests there is such a thing as goodness. Belief in objective right and wrong is not exactly the same as belief in God, but C.S. Lewis, for one, considered the former commitment to be the one that really defines the common core of religious belief—including forms of philosophy we do not usually consider religious. Mr. Wildmon should have responded by asking the reporter to go back to the humanists. "Tell them I think it is right to kill people," he should have said, and "ask them whether, if I think that is good, it is good? If the answer is no, ask them what standard other than human will could exist in a world without God?" I think there is an answer to that question, but I'm not sure the humanists want to debate the matter.

Title: Pope Benedict's Healthy Secularity

Date: 2008-11-15T07:03:00.002-05:00

11/15/2008--According to media reports, Pope Benedict this week called for a "healthy secularity" in public life. While the Pope is particularly concerned with the role of religion in a quite secular Europe, we in America have to come to grips with precisely the same question: just what is a "healthy secularity"? The project of Hallowed Secularism is one attempt to do exactly that for nonbelievers. But the matter can be looked at as a question of deep public policy under the Establishment and Free Exercise Clauses of the Constitution. A healthy secularity is one that does not choose among institutional religions or between religion and certain forms of secularism. It does, however, stand against nihilism, materialism and postmodern humanism in the name of objective meaning and justice in history. It openly encourages belief in this common core both by those persons who belong to churches and those who do not, those who believe in God and those who do not. It does not fear the use of traditional religious symbols, such as the word God, to express this common core, as long as it is clear that these symbols are not being used to prefer any one form of belief. I hope that a call such as this for a healthy secularity might cut through the pro and anti religion debate that some secularists think is a crucial issue in the world.

Title: The Mormon church and Proposition 8

Date: 2008-11-17T15:09:00.001-05:00

11/17/2008--According to the Associated Press, on Friday, November 7, protestors in Salt Lake City "marched around headquarters of the Mormon Church" chanting "Separate church and state... ." The protest was held to criticize the Church for its enthusiastic support of Proposition 8. There has been more criticism of the Church since then. Today, a story appeared in the LA Times in which Jim Key, a spokesman for the L.A. Gay & Lesbian Center, was quoted as follows: "We're making a statement that no one's religious beliefs should be used to deny fundamental rights to others... ." The story mentioned estimates, which could not be confirmed, that Mormons gave more than \$20 to support Proposition 8. Now, I was an opponent of Proposition 8 and I support gay marriage (I now wish I had sent some money to the effort to defeat Proposition, but I was guilty of thinking that such a thing could never pass in California). Nevertheless, I have to say that these quasi-constitutional criticisms make no sense. Obviously no one's religious beliefs should be used to deny fundamental rights, but no one's political beliefs should either. The question is whether gay marriage is a fundamental right. A majority of Californians does not think it is. Do these critics really mean that our religious beliefs should not inform our voting? And that it is violation of the separation of church and state when they do? This will come as a shock to the legacy of Martin Luther King, Jr. Imagine now the opposite scenario. I go to the polls to vote against Proposition 8. Someone claims that I only support gay marriage because I learned in Hebrew School that all human beings are made in the image of God. This person then says by voting against Proposition 8 on this religious ground, I am violating neutrality toward religion. This is silly. Voters don't need anybody's permission to vote. And they come to their conclusion about how to vote through all kinds of considerations. Next time, say that the Mormon leadership are bigots. Not that they mixed church and state.

Title: Ursula LeGuin on Economics

Date: 2008-11-19T13:59:00.000-05:00

11/18/2008--In the midst of the short-term financial catastrophe that has enveloped much of the world, we must also think about the longer term. What kind of economic life should humankind have? Replying "market" to that question is not a complete answer. The question is, what assumptions about the nature of human beings are implied by the market? Perhaps we need to reject at least some of those assumptions. Here is LeGuin's take on economics from her novel *The Dispossessed*. The description is of Shevek, the anarchist physicist, trying to learn economics. "He tried to read an elementary economics text; it bored him past endurance, it was like listening to somebody interminably recounting a long and stupid dream. He could not force himself to understand how banks functioned and so forth, because all the operations of capitalism were as meaningless to him as the rites of a primitive religion, as barbaric, as elaborate, and as unnecessary. In a human sacrifice to deity there might be at least a mistaken and terrible beauty; in the rites of the money-changers, where greed, laziness, and envy were assumed to move all men's act, even the terrible became banal." Our new economic arrangements, whatever they are to be, must begin here.

Title: Mike Huckabee's Christian Party

Date: 2008-11-22T07:48:00.002-05:00

11/22/2008--Henry Olsen, a Vice President of the American Enterprise Institute, wrote a column for the Wall Street Journal last January, after Mike Huckabee's victory in the Iowa caucuses, that argued that Huckabee was trying to create a new kind of political movement along the lines of the Christian Democratic tradition in Europe. Huckabee's populist economics combined with his Christian identification suggested, said Olsen, a "pro-faith" "pro-government" position that would be a challenge to the more secular, private property oriented Reagan wing of the Republican Party.

Now, while the Republicans are trying to figure out what comes next, Huckabee is back with a new book, "Do the Right Thing: Inside the Movement That's Bringing Common Sense Back to America", which judging by his appearance on NPR last week, represents his position in this Republican Party debate.

Huckabee's position is probably out-of-touch politically at the moment, since our economic crisis is dominating everything. But that should not rule him out, since Ronald Reagan was also out of touch for awhile. The wheel may turn back to the questions that Huckabee is raising.

Undoubtedly some would say that creating a Christian Party of any kind violates constitutional principles of the separation of church and state. [Notice I don't say it would be unconstitutional, since it plainly would not be that]. It is probably true that political division along religious lines would be anathema to the framers of our Constitution. So, let's consider the constitutional principles that might be involved.

One fundamental constitutional principle seems to me to be that votes for a candidate should not be cast on the basis of identity. Of course voters violate this principle all the time, but just as President-elect Obama would be the first to say that African-Americans voters should not have voted for him because he is black, Huckabee would agree that voters who are Christian should only vote for him if their interpretations of the Gospel yield the same policies for public life that his interpretation does. He would agree that Christians should not vote for him just because he is a Christian. It is true that some of those policies touch on faith, such as literal expressions of faith in the public square. But, unless a display of the Ten Commandments on public property is itself ruled unconstitutional by the courts, having such displays there is just another policy. We can see plainly that Huckabee is not running on Christian identity because if offered support by "values conservatives" who are Jewish, Muslim, or secular, Huckabee would welcome them on principle—and not cynically.

This latter observation suggests that the legitimacy of voting for a substantive proposition, including Proposition 8 in California, does not usually depend on the motivation for the vote. The fact that Huckabee claims his policies are supported by the Gospel is not itself a ground to assert that his project violates constitutional principles.

Why then does Huckabee often use the visual symbols of Christianity? I suggest it is not to make a pitch to Christians. It is a different shorthand. It is a quite specific and well-understood shorthand for a collection of otherwise perfectly constitutional policies. I don't agree with much that Huckabee proposes, but his kind of faith electioneering threatens no constitutional principle.

Title: Pleasant Grove City v. Summum

Date: 2008-11-25T08:32:00.001-05:00

Since it now appears that the following letter to the editor will not be published by the New York Times, I can publish it here. The Pleasant Grove case, Pleasant Grove City v. Summum, was argued in the United States Supreme Court on November 12, 2008. The case arises out of a lawsuit in which a religious movement, Summum, sued a municipality to either remove a display of the Ten Commandments or allow it to put up a display on the same public land honoring its religious wisdom. The argument before the Supreme Court, however, did not involve the right of the City to display the Ten Commandments under the Establishment Clause. It only involved the right of Summum to put up its own display in the same area. The New York Times took an editorial position in favor of Summum. As the following critical letter indicates, this is a little hard to take seriously. In the case's current posture, I don't see how Summum can possibly succeed. To the Editor: Your editorial position on the Pleasant Grove City case is incoherent. You suggest that the case is a matter of religious discrimination since the City elevated Christianity over another religion in allowing a Ten Commandments display but not a display by Summum. Logically, your objection should not be to any discrimination but to the elevation of Christianity in the first place. Summum originally did object to the Ten Commandments display on Establishment Clause grounds, but the case is not before the Supreme Court in that posture. In the current posture of the case, Summum cannot possibly succeed. Either the original Ten Commandments display endorses Christianity--or Judeo-Christianity--in which case the proper relief is to remove it, not to add another religion--or the original display is speech by the government that endorses a secular ideal that the Ten Commandments merely symbolizes. If the latter is the case, the Ten Commandments display is not an endorsement of any religion, but is a kind of argument for the transcendent foundations of law similar to the commitment in the Declaration of Independence to unalienable rights. Either way, the proper answer is not to add a display by Summum.

Title: The Habit of Hope

Date: 2008-11-27T05:31:00.003-05:00

11/25/2008 Today is Thanksgiving. I am reminded that this is the one holiday about which religious believers and nonbelievers do not quarrel. Thanksgiving is beyond the culture wars. This is the cultural option we need more of. At the moment, the believer and the nonbeliever see themselves as apart, really as enemies. This is not true, however. Even the Pope last week was misinterpreted. On certain matters there cannot be dialogue among the religions. On others, yes there can be, he said. But there is no threat in this. Our religions must remain as they are or they could not teach us secularists anything. Their dogmas are their own. Out of this does not come synthesis, but variety: a secularism that has learned from all the religions. Thanksgiving is a gift to the secular world from the religious world. That is how we should think of the religions in general, as gifts. I am finally finishing Ursula LeGuin's book, *The Dispossessed*. It is remarkable and I recommend it to you. The book tries to imagine genuinely different human societies. At its center is a colony that tries to live a nonauthoritarian communism, a real anarchy. The book is not a pitch for this; it is not like Robert Heinlein's 1966 ad for libertarianism, *The Moon is a Harsh Mistress*. No human society avoids flaws. What LeGuin's book is really about is hope. In the book, humanity has ceased to hope. The physicist Shevek sees hope as somehow present in the structure of time. This is his new understanding of physics. Hope is another gift from Our Religions, or some of them. When a politician like Barack Obama comes along and offers just a little of it, our thirst for hope comes rushing out. But hope does not come in the form of this or that person. It has to be believed in as a possibility, out of faith. Life can be really different. A secular society that thinks it is at war with religion, with the very notion of faith, is going to have a hard time sustaining hope. So we had better not become that kind of secular society.

Title: The Grace of Religious Believers

Date: 2008-11-29T07:40:00.003-05:00

11/29/2008--Do you remember how the Amish reacted to the murder of young schoolchildren in their community? Do you remember how shocked the world was at their forgiveness and generosity? They did not give in to hate. It was quite a comparison to how we all reacted to 9/11.

Now read the reaction of a different religious community, the Lubavitch, to the murder of Rabbi Holtzberg and his wife in Mumbai. Hear again the grace and care. Hear again how we are never to hate in response to evil. Hear again the promise of a better world, while we strive to improve this world every day.

Now, I ask you, fellow secularists, how are we going to live a life like this? Where will the resources and wisdom and peace come from? I don't know, but in the meantime we must draw our Religions close and learn what we can from them

Dear Friends,

Our hearts are shattered at the news from Mumbai where Rabbi Gabi and Rivka Holtzberg, emissaries of the Lubavitcher Rebbe- Rabbi Menachem Schneerson, of righteous memory- were among those murdered in the terrorist attack on the Chabad House there. Tonight their little son Moshe'le, who was miraculously rescued, will mark his second birthday.

Gabi and Rivka uprooted themselves from a life of comfort and convenience to live thousands of miles away from the familiar surroundings of New York and Israel, and moved to India. There they inspired and cared for the local Jewish community, scores of Jewish tourists and business people who frequented their Chabad House. The Holtzberg's shared their love of Yiddishkeit and the warmth of their family with people of all backgrounds in India. And now they have made the ultimate sacrifice for our faith and community. They lived and died as exemplars of the Jewish people on the frontlines. May their souls be bound up in the eternal bonds of life and may their family be comforted among the mourners of Zion.

We have no words, we have no answers. We don't begin to understand G-d's ways, nor are we expected to. Only G-d Himself can restore the light of Moshe'le's life and comfort him and the rest of this aching world. And until He does that, we must continue their life's work. They deserve no less.

We will continue to try and emulate Gabi and Rivka, to seek out our brothers and sisters in every corner of our community, in every corner of the globe - with love and commitment - with acts of goodness and kindness, until that day when G-d Himself will wipe the tears from every face.

It's almost Shabbat. Candle lighting time tonight is 4:39. In a world that has suddenly become darker, we must bring in more light. We urge every Jewish woman to help transform that darkness with the light of Shabbat candles this Friday and every Friday. We call on every person to increase their mitzvot - acts of goodness and kindness - until the day G-d fulfills His promise to us and gives us a world transformed, perfected and redeemed.

Shabbat Shalom,

Rabbi Yisroel and Chani Altein

Title: How Thankful Was Your Thanksgiving?

Date: 2008-12-02T04:59:00.001-05:00

12/2/2008--How thankful was your Thanksgiving? Mine was not at all. I wrote in a prior post that Thanksgiving was not part of the culture wars. But, that is not really true. The context of genuine thankfulness marks the difference between a "religious" Thanksgiving and what we would now call a secular Thanksgiving. This Thanksgiving, I was on a boat in Pittsburgh for a Thanksgiving cruise on the three rivers. It was very nice, with a large number of people. But the cruise people know better than to try to begin the festivities with a prayer. Or, maybe it was not even a prior bad experience. Maybe outside of traditional religion, we are out of the habit of prayer. Hallowed Secularism must develop the habit thankfulness. This is as close to a healthy attitude toward reality as secularism can now get. But, of course, we need liturgy. Secularists cannot sit down to a Thanksgiving meal and say, "Heavenly Father, we give thee thanks." We should first be clear whether thankfulness is necessary. Should we be thankful? Or should we take the world as our right? Which of those two attitudes is healthier? Which one is closer to truth? Did we make the world, or was it a gift? The world and all its good things can be a gift even though there is no person-like being who gave it. It could just be a gift. I'm going to make sure next Thanksgiving to begin the meal by saying, "for what we am about to receive, we are thankful; for all the gifts of our lives, we are thankful". And just so it does not seem awkward to a secularist, I am going to start with that prayer at every meal.

Title: The Secularization of Islam

Date: 2008-12-04T11:56:00.001-05:00

12/4/2008—We may look back at the terrorist attacks in Mumbai as the beginning of the secularization of Islam. That, at least, is how the Wars of Religion in Europe during the latter half of the sixteenth century and the beginning of the seventeenth century affected religious life there. Those wars between Catholics and Protestants not only exhausted Europe, they played a part in delegitimizing Christianity among European elites. It was felt by many that any institution that could be responsible for such carnage must be bad. In similar fashion, if Islamic leadership is unable to decouple Islam from fanatical violence, undoubtedly Islam will lose its educated youth. I do not mean to criticize Islam on these matters. That is not really for an outsider to do. But terrorism is never going to be a choice for the overwhelming majority of believers. If religion and violence are seen as partners, people will eventually turn away from religion. I doubt that there is anything that Muslim leaders can actually do to isolate Islam's violent minority. Monotheism of all kinds seems to have this potential for violence. It took a hundred years in Europe for secularity to really take root. But it did. And there were many reasons for it. But religious violence clearly played a part. Perhaps in the future, Mumbai will be viewed as playing the same kind of part.

Title: The Conclusion of For the Establishment of Religion

Date: 2008-12-07T06:04:00.003-05:00

12/7/2008--I have finished the manuscript of what I hope will become the third book in my trilogy about religion in American life: For the Establishment of Religion. Here is the conclusion:

At the beginning of her classic science fiction novel, *The Dispossessed*, Ursula LeGuin describes a space flight between two worlds that had been cut off from each other. An inhabitant of one world, the physicist Shevek of Anarres, is being transported by a crew from the other world.

In one scene from the flight, Shevek asks the ship's doctor why the Second Officer seems to be afraid of him. The Doctor tells Shevek that the Second Officer is religious and knows that "there's no religion on Anarres."

Shevek replies, "No religion? Are we stones on Anarres?"

The Doctor responds, "I mean established religion—churches, creeds—"

Shevek ponders this and comes to a new conclusion:

I see... . You admit no religion outside the churches, just as you admit no morality outside the laws. ...
The vocabulary makes it difficult. [T]he word *religion* is...rare. Not often used. ...[Y]ou could not seriously believe that we had no religious capacity? That we could do physics while we were cut off from the profoundest relationship with the cosmos?

Our situation in law has not changed at all from the one LeGuin described over thirty years ago. The vocabulary makes it difficult. This book has argued that the government may not establish religion in the sense of churches and creeds, but must establish the religious capacity, or try to, or at least be allowed to try to, if society is to flourish.

This is not a matter of religion versus secularism. I am a secularist. There are many kinds of secularism. It is a matter instead of being open to the profoundest relationship with the cosmos. The New Atheists and many who favor a strict separation of church and state are not open. They are not open to mystery. They not open to the transcendent. Under their influence, and without a counterbalance in the culture, their narrowness may one day come to dominate our social climate. Then we will be stones indeed.

The United States Supreme Court has a role to play here: positive or negative; opening or closing. At the moment, the Justices seem only to have two modes. On the one hand, separation of church and state in the broad sense of opposition to any public expression that has the smell of religion about it. On the other hand, the conservatives, just waiting for their chance to enthrone the Bible as the winner of a contest to be the dominant public expression.

There need be no winners and losers. Let the Court announce that we share a religious capacity and that government, when it establishes religion, is simply trying to keep that human capacity alive in a world of deadening technology, consumption and entertainment. Even when the government uses traditional religious symbols, language and images, it is still trying to keep open a universal hope. It is not declaring winners and losers. If the Court were to announce this, law would occupy a role it has recently forgotten: peacemaker.

Of course, there will still be those who honestly contest the religious capacity, who dispute openness, who despise mystery. Perhaps they are right. And they will certainly have their say. But they have no right to government neutrality.

We are too used to thinking of established religion as a powerful force. It is not going to be so for very long. We had better begin to prepare for the day that it is not. Secularism may confidently put down its weapons. It is going to win the contest against established religion. But when it does, it is going to have to turn to its vanquished foe for help. When it does so, law should not stand in the way.

Title: The Future of Secularism in American Politics

Date: 2008-12-08T11:15:00.003-05:00

12/8/2008--for the content of this post, go to The
Huffington Post blog at

http://www.huffingtonpost.com/bruce-ledewitz/the-future-of-secularism_b_149232.html

Title: The Firing of Don Guter

Date: 2008-12-11T17:19:00.004-05:00

12/11/2008—The rest of the world is unaware that here at Duquesne University School of Law, the Dean, Don Guter, was summarily fired yesterday. No reason was given. Dean Guter did not deserve to be fired. The law school is doing very well on his watch and there is no unmentioned scandal going on. President Dougherty just wanted his own person in as dean. Guter was too independent in his judgment. This is not big news. Things like this happen all the time. But this is a Catholic Law School. Not only that, but we hear all the time about Duquesne's "mission", to serve God by serving students. I make the point in the book *Hallowed Secularism* that one of the reasons for rising secularism is that religious institutions do not behave as well as secular ones. That is not always true, but it is true here at Duquesne. When it happens, religion itself suffers. Religion is made to look ridiculous in the eyes of the non-religious world. Karl Barth once said there is the church of Esau and the church of Jacob. There is the man-made church institution and then there is the representative of the holy spirit--verily God's representative on earth. It isn't fair to expect religious institutions to be better than human beings tend to be. That is true but it is not the point. I would like to see the representatives of Our Religions under the weight of representing God. I would like to see them always asking themselves, what will the nonreligious think if we do a certain questionable thing? This is the way that Jews used to ask, what will the goyim think? I wish President Dougherty had said to himself before he acted, I had better be especially sure and especially just, because not just my reputation will suffer if I am wrong. Nor just the reputation of Duquesne University. But God's reputation will suffer. And it has.

Title: Is Dobby Really Free?

Date: 2008-12-16T10:24:00.002-05:00

12/16/2008--At the end of the movie Harry Potter and the Chamber of Secrets, Harry tricks Lucius Malfoy into freeing his house elf, Dobby. By the rules of Harry's universe, masters can grant manumission to what are essentially slaves by giving to the creature an article of clothing. [This is not so odd; in the Book of Ruth in the Old Testament, certain transactions are attested by giving one's shoe to the other party] Harry secretes a sock in a book that itself is evidence of seditious activity and then accuses Malfoy of having given the book to an innocent party. The charge is a ruse designed to distract Malfoy from looking at the book before giving the book to Dobby. The ruse works. The question is, why is this trick effective? Obviously Malfoy never intended to free Dobby. Why isn't intention required? By the logic of Harry's trick, any elf could easily free himself simply by secreting articles of clothing all manner of containers that would then be unknowingly passed back to the elf. This issue of the intent required to free a slave, and other aspects of the law of manumission, was the subject of Bob Cover's groundbreaking 1984 book, *Justice Accused: Antislavery and the Judicial Process*. A trick like the one Harry pulled would probably not suffice to transfer any other kind of property, absent special circumstances. Cover examined the willingness of judges to bend the rules in favor of freedom. The book raised the question of the relationship of positive law to natural law, or transcendent norms. The movie, and the book upon which it was based, apparently assume that Dobby is free despite the dishonesty involved. The question is, why would that be so?

Title: The Hatred of Unions

Date: 2008-12-21T07:13:00.000-05:00

12/18/2008—One cleavage that can still be seen between conservative Catholics and conservative Protestants is the attitude toward unions. I don't think hostility toward unions is pronounced among Catholics. It certainly is among certain Protestants. The difference may lie in differing understandings of solidarity. Conservative Protestantism in America is very individualistic, even heretically so. Karl Barth would not be at home in it. American hostility to unions is a long standing tendency. It is part of why socialism did not quite catch on here. You see it in the hostility toward public education and teacher unions. And you see it in attitudes toward the automobile loans as opposed to aid to the financial industry. It did not occur to anyone to ask about compensation among ordinary workers in the financial sector, whose compensation, of course, is quite extraordinary. Somehow, that was not even on the table, whereas it is regarded as an affront that ordinary autoworkers make good money. Naturally, good money isn't so good when your industry is asking for public money, but that was true for Wall Street brokers too. I don't know why many American Christians do not see the importance of unions. Our economy is foundering today in part because ordinary wages have lagged. They have lagged for many reasons, but we should not assume that pure market forces are always at work. Partly, management takes more because it can. It can because unions are weak. Stronger unions raise all wages. Ask the nonunion workers at the Nissan plant in Tennessee whether they want to see the United Auto Workers Union broken. They may not want to be unionized, but I imagine they know that potential unionization improves their situation. We need to return to an economy of widely spread wealth. It will be best for the rich too.

Title: A New Kind of Faith

Date: 2008-12-22T13:19:00.002-05:00

12/22/2008—I had the usual experience recently at a seasonal party of mentioning the word “truth” and hearing someone ask, “whose truth?” As C.S. Lewis once suggested, the commitment to the objectivity of values—the belief that some things really are wrong or beautiful—is the real dividing line between religious people and nonreligious people. And, as he also knew, that dividing line does not respect churches or professions of atheism. Many people who call themselves religious are relativists and many who do not, believe passionately in the objectivity of values: think of secular human rights activists. This observation brings forth strange bedfellows. Conservative jurisprudence is thoroughly relativistic, which is why Justice Scalia writes of history and text and never of truth. Some secularists understand how crucial the objectivity of values is. Sam Harris once proclaimed that he believed in objective right and wrong in a Newsweek interview. Austin Dacey has written a book—*The Secular Conscience*—defending the idea and criticizing secular relativism. The problem for secularists is that without God, the concept of the objectivity of values requires rethinking. As Charles Taylor puts it, the phenomenology of universality is frustrated by an ontology of immanence. Or, to be blunt, who stands behind goodness as a guarantee that it is real if there is no God? That rethinking has not yet been done. This is why “spirituality”, as in the common phrase “I am spiritual but not religious” is usually ethically and historically empty, reduced to personal experiences of transcendence. Truth is normative and operates in and through history. We have to make a public commitment, either expressly or with our lives. It seems to me that the belief in, and commitment to, the objectivity of values, of right and wrong in this context, is a faith claim. It is a faith claim not really different from belief in God, except that the laws of science lead to skepticism here differently than they do in regard to theism. Is the secularist willing to die for truth, knowing full well that there is no heaven and no Messiah for redemption? The answer can be yes, for this is a new kind of faith.

Title: The HumanLight Holiday

Date: 2008-12-24T10:51:00.000-05:00

12/24/2008—Yesterday, Brad Linder of NPR did a story about HumanLight, the secular holiday that coincides with the winter solstice period. According to the story, a number of humanist groups celebrate the holiday in a family-friendly way, with songs, stories and even candle lighting. The story showcased one such celebration, in the Philadelphia area last weekend. According to the story, HumanLight was founded eight years ago to highlight reason and human achievement. Clearly, however, it also is a way for non-religious families to participate in the Christmas season. According to Joe Fox, President of the Humanist Association of Greater Philadelphia, with whom I spoke after listening to the program, there is some controversy about HumanLight within the secular community because it is so religious in tone and feel. HumanLight seems to perfectly represent the struggle in secularism over its connection to religion. My book *Hallowed Secularism* argues that secularism needs religion in order to be healthy and to serve a flourishing humanity. It is not surprising that parents would want their children to have a little magic during the holiday season. HumanLight follows the pattern that *Hallowed Secularism* predicts. On the other hand, secularists here make the same mistake they are always making—over-praising human reason. Reason, after all, gave us Cold War mutually assured destruction and the calculated Vietnam War. Who would think you could separate human beings into two different parts—feeling and reasoning? Reason here really just means no supernatural world and its use that way is misleading. Why celebrate human beings with all our faults? Better to take a leaf from Christianity and celebrate a holiday called “New Beginnings” that would emphasize the capacity of reality to allow for something new. That is the message of Christmas, perfectly captured in President Obama’s title—obviously Church inspired—*The Audacity of Hope*. In the darkness of human power—that of Rome—in a stable among the poor, reality responds with an event wholly unpredictable that brings a new grace to the world. Don’t praise us. Praise reality. In the story, there was one moment that did not serve to overinflate the human. At the celebration, the children watched pictures of galaxies. The wonder of it brought them to silence. More of that. Less of us.

Title: Chanukah—the Victory of the Taliban
Date: 2008-12-26T22:02:00.002-05:00

12/26/2008--Tonight is the beginning of the sixth day of the Jewish holiday of Chanukah, thus six lights tonight. I learned growing up that Chanukah represented the victory of religious liberty, that Antiochus Epiphanes, emperor of the Seleucid Empire, seized the Second Temple in 168 B.C., forbidding Jewish worship and requiring worship of the Greek gods instead. I was taught that the holiday commemorates the rededication of the holy Temple in Jerusalem after the Jews' 164 B.C. victory over the Hellenists.

Here is how the story is usually told: The fighting began in Modiin, a village not far from Jerusalem. A Greek officer and soldiers assembled the villagers, asking them to bow to an idol and eat the flesh of a pig, activities forbidden to Jews. The officer asked Mattathias, a Jewish High Priest, to take part in the ceremony. He refused and another villager stepped forward and offered to do it instead. Mattathias became outraged, took out his sword and killed the man; then he killed the officer. His five sons and the other villagers then attacked and killed the soldiers. Mattathias' family went into hiding in the nearby mountains, where many other Jews who wanted to fight the Greeks joined them. They attacked Greek soldiers whenever possible. After three years, Mattathias' son Judah Maccabee, Judah the Hammer, retook Jerusalem. But there was not enough oil to keep the ritual menorah in the Temple lit. Miraculously, the menorah burned for eight days, enough time to procure more oil.

The later rabbis had their doubts about Chanukah. For one thing, the victory of the Maccabees led to the establishment of the Hasmonean dynasty that persecuted religious opponents and, if I remember correctly, introduced the practice of crucifixion of critics. The persecuted groups included the party that later became the Pharisees, who later became the rabbinic movement that created the Talmud.

In addition, the rabbis of the Talmud did not favor armed revolt against the overwhelming power of Rome, which the earlier revolt tended to inspire. Rabbinic Judaism began its life as a separate national movement with the opposition by Yochanan ben Zakkai to the war against Rome (66-73 A.D.) that led to the destruction of the Second Temple in 70 A.D. The legend is told that during the siege of Jerusalem Zakkai arranged to be carried out of the city in a coffin so he could negotiate with the commander of the Roman forces, Vespasian. Zakkai predicted that Vespasian would become Emperor and that the Temple would soon be destroyed. In return, Vespasian granted Zakkai three wishes, including the right to resettle in Javne and continue teaching. Javne became the founding academy of Talmudic Judaism. The rabbis were realists, not zealots.

In this light, one can look differently at the range of opinion among the Jewish people at the time of the Hellenic Empires. Presumably, some of the Jews at the time did not want to give up Judaism but to begin an accommodation of Judaism to the then-modern world of Greek civilization. The mythical killing of the villager might then remind us not of religious liberty but of its opposite--of the tyranny of religious zealots who impose their fundamentalism by violence against their opponents who wish to live both religious and modern lives. In other words, the Maccabees could be viewed in a light similar to that of the Taliban in Afghanistan and all the other religious bigots in the world who are willing to kill those who do not follow their interpretation of religious traditions. I have often wondered why liberal Jews so love Chanukah when they would have been among the first victims of the Maccabees.

Title: Hegel on Hallowed Secularism

Date: 2008-12-29T15:17:00.002-05:00

12/29/2008--To be anticipated by Hegel is no shame. To be anticipated by Jurgen Habermas interpreting Hegel is still okay I guess. But to be anticipated by Fred Dallmayr criticizing Habermas' interpretation of Hegel, well, that is not much of an accomplishment. The text in question is Fred Dallmayr, *Margins of Political Discourse* (State Univ. NY Press 1989). Dallmayr is discussing and critiquing Jurgen Habermas' positions in *The Philosophical Discourse of Modernity* (Cambridge, Mass.: MIT Press 1987). According to Dallmayr, in the chapter on Hegel Habermas begins with the young Hegel in the theological writings: "Habermas points to a certain Romantic or mythopoetic version of reconciliation which Hegel shared with Schelling and Holderlin, his friends in the Tubingen seminary. Countering both the orthodoxy of positive (or established) religion and the abstractness of Enlightenment ideas, these writings appealed to a purified public faith or civil religiosity as the bond tying together and reconciling the conflicting segments of society. Only when represented in public festivals and cults and linked with myths engaging heart and phantasy—Hegel argued at the time—could a religiously mediated reason 'permeate the entire fabric of the state'" 42. This sounds very much like *Hallowed Secularism*, which also seeks a civil religiosity that avoids every dogmatic assertion. Hegel thus anticipated the idea of something like what the upcoming book and this blog are about. Aside from the question of whether ties of this kind could lead to social "reconciliation," which is how Dallmayr presents Habermas' interpretation, the question for us today is how such a phenomenon comes about. Upon what is Hegel's civil religiosity built? For Hegel, the answer to that question lies in the realm of the political or social. Thus, religion there involves relationships within the state. For *Hallowed Secularism* today, the answer will lie in the realm of science. Religion today must be natural in the sense of scientific regularity.

Title: Ursula K. LeGuin Responds

Date: 2008-12-31T16:51:00.002-05:00

12/31/2008--Readers of this blog are aware of the role the science fiction classic *The Dispossessed* plays in the book I recently finished, *For the Establishment of Religion*. I used one scene from that book to illustrate the relationship of institutional religion to the broader reach of religion that I argue government may establish. One of the characters in the book states that religion is the profoundest relationship a human being can have to the cosmos. My point was that government may perfectly well promote that kind of relationship, but may not promote any particular religion. I wrote to the author, Ms. LeGuin alerting her to my borrowing and she graciously responded. She objected mildly to the use I was making of her character. She wondered why government would be involved and feared for the wall of separation. She noted that belief is often the enemy of mystery, which is perhaps why she was loose in her treatment of religion in the novel. Let me respond to Ms. LeGuin here so as not to become tedious to her. Government in our system is a source of cultural values. That is not so true in her book, which deals with a society without formal governing structures. But even in her anarchist setting, social pressure does the same job of setting the cultural context, which is one of the points of the book. In our society, secularism is rapidly growing. The question is, what kind of secularism will it be? I want government to promote the objectivity of values and to oppose materialism, post-modern humanism and nihilism. I believe these latter worldviews are becoming a kind of default position for many. This is not a matter of doctrine or mystery, but of approaches to reality. Government may promote a healthy culture just as it may promote a healthy physical infrastructure. A happy and healthy new year to my readers.



POSTS:
2009

Title: The Fighting in Gaza

Date: 2009-01-03T01:56:00.002-05:00

1/3/2009--The depressing, developing catastrophe in Gaza is a source of distrust of religion for many people. I make the point in the book, *Hallowed Secularism*, that the hatreds spawned by religion are one reason that secularism is growing. Jesus said, By their fruits will you know them. Well, the fruits of institutional religion have been violence all too often. Yet, the fighting in Gaza is not about religion, at least not primarily. I read in the *Jewish Chronicle* in Pittsburgh that Hamas had made proposals and had premised acceptance of these proposals on a cessation of bombing Israeli towns. I don't say this to suggest that Hamas is in the right, but to suggest that the fighting in Gaza is not directly about the ultimate existence of Israel. There should be a rule of international relations for the United States—whichever wins a fair election is the legitimate government. When Hamas won the most recent elections, what would have happened if it had been recognized as the legitimate government? Certainly matters would be no worse than they are now. As most Israelis certainly are aware, there is no security for Israel in continuing military confrontation. There is no future in that. There must be peace. And ultimately that means convincing average people on both sides. Democracy is the only way to do that. But that means that Hamas must be permitted to govern. As long as Hamas does not cancel future elections, the democratic experiment must be permitted to go forward. Won't the Palestinian voters eventually vote for peace? Or, do we imagine they are different from us, from the rest of humanity? The religious threat in the Israeli/Palestinian conflict is not from Islam, but from the settler movement in Israel. That is where one hears that God gave all the land to the Jews. Let the Jews of America confront this imperial tendency in Torah and not worry so much about the flaws in Islam, real though they may also be.

Title: Kentucky Legislator Tom Riner and the Wall of Separation

Date: 2009-01-05T08:31:00.002-05:00

1/5/2009--The New York Times story yesterday about Tom Riner and his constant quest for more public expression of God is a story about an opportunity to finally lay to rest some of the culture wars. Riner wants more expressions of gratitude to "Almighty God", including a legislated reference to God's providence by the State Office of Homeland Security.

Some or all of this may be unconstitutional under the courts' current interpretation of the Establishment Clause, but it will be helpful to ask just why that might be. My manuscript, For the Establishment of Religion, argues that these religious expressions are constitutional only if interpreted differently from the way that Riner understands them. Riner undoubtedly is endorsing the God of the Bible, maybe even Jesus Christ. My book argues that references to God are constitutional because they are not unequivocally sectarian endorsements of this kind, but might mean something different, such as the meaningfulness of history and the objectivity of values.

Those who favor a strict separation of church and state seriously misunderstand the kind of polity we have always been. For example, the Constitution omits the word God. So, the separationist concludes, America cannot formally endorse God. But the word God appears everywhere else, such as in the Declaration of Independence and on our money. So, a prohibition on the endorsement of God cannot possibly be the only or best constitutional interpretation of the Establishment Clause, even aside from the political fact that the people insist on such endorsements.

The point should not be that God is not named, but that God is not defined in our tradition. Riner is wrong to insist that the God that may be acknowledged must be his version of God. His actions may be constitutional in promoting the public use of the word God, but his intentions are not.

What if this were actually said to Riner? What if Riner came to see that it is unfair and unconstitutional to tell people with public money just what God means, but that it is okay to acknowledge God as long as there is absolutely no official definition. He might come to see this as a legitimate bow to pluralism.

My aim is to keep America pious in the sense of committed to something beyond materialism and relativism. God as part of the public square is crucial to this effort. But I mean to include many people who think of themselves as atheists and many more who do not endorse Riner's version of God, including myself. I have a feeling that a grand and important compromise along these lines is possible.

Title: Signs of the Struggle Over Secularism in Borders Bookstore

Date: 2009-01-07T05:45:00.001-05:00

1/7/2009--I was recently browsing in a Borders Bookstore in Pittsburgh, in the religion section. To my surprise, I found a shelf labeled "Atheism" among the shelves of comparative religion, Islam, Judaism, Christianity and so forth. Surely this is a new phenomenon. Ten years ago, would one have found "atheism" separately listed, let alone listed among the religion categories? (Not that I know where else atheism might go—philosophy? Self help? There is a very large section entitled "Metaphysical Studies". But this section is not dedicated to philosophy or religion. Rather, it seems a sort of new age mysticism corner, with ghosts and tarot cards. Is this an indication of creeping American nuttiness?) The atheism shelf is small. And it seems dedicated to the kind of reflexive anti-religious spirit exemplified by Christopher Hitchens and Sam Harris. Yet, in the midst of it, there was a book entitled *The Little Book of Atheist Spirituality* by the French philosopher Andre Comte-Sponville. The tone of this book is quite different. Here one finds an appreciation of the religious tradition and a willingness to explore common points of reference. This book sounds more than a little like *Hallowed Secularism*. I think bookshelves like these should be called secularism, not atheism. Of course it is true that anyone who does not believe in the existence of a personal God who intervenes or at least can intervene in the universe is literally an atheist (a—not—theos—God). Yet, for the secularist who is open to spiritual reality and to the power of justice in history, the word God can function as a symbol of just such commitments. The word secularism would announce the coming contest between secularists open to the religious tradition and the atheists who simply oppose religion, usually in the name of some kind of materialism or humanism, or perhaps in the name of nothing at all.

Title: So Help Me God?

Date: 2009-01-09T10:42:00.002-05:00

1/9/2009—Yesterday, the newspapers were buzzing with two questions concerning President Obama's inauguration: would Obama finish the oath of office with the words, "so help me God" and would Michael Newdow, late of his court challenge to the Pledge of Allegiance, be permitted to sue in federal court to bar all references to God at the inauguration?

The simple answers to the questions are yes and no. Yes, Obama will say "So help me God" because, aside from whether he seeks God's aid, to fail to say this formula would cost him tremendous political support he has already shown he is not going to throw away. Obama did not run with God during the campaign to change course now.

As for Newdow, I presume he lacks standing to bring this challenge, whatever the merits. This seems like the classic instance of a "generalized grievance" that federal courts refuse to hear.

But there is a deeper and more troubling question: are we destined to go on in this stupid way? Are there really only two choices—either we ban all references to divinity or we endorse biblical monotheism? This is not just the woodiness of secularists. The United States Supreme Court has offered the people only three choices—mandated government neutrality toward religion, which is what Newdow is trying to enforce, "ceremonial deism", which means the Justices do not believe references to God matter thus insulting both sides, and endorsement of monotheism, which is Justice Scalia's position. The latter seems totally inconsistent with the constitutional prohibition against establishment of religion.

As we become more secular, these faulty formulations promise more, and more bitter, confrontation, until the secularists win, years in the future. But what will they have won? So help me God will then be replaced with a dreary materialism. It will be so help me malls.

What we need is a new understanding of what these religious formulations can mean. Not what they are meant to mean, but what they are capable of. The word God has a rich history going far beyond Scalia's narrow monotheism. Just for example, what if the word God in the inauguration implies that history has a normative shape that we must seek to emulate—Martin Luther King, Jr.'s "arc of the moral universe". Not only might Newdow agree that there is such a reality, he would certainly agree that it is not unconstitutional for government to assert it. Believers would agree that even non-believers should be able to see this. Thus, the beginning of the end of the culture wars.

This is what my book, *For the Establishment of Religion*, argues the courts should do. The courts should find an inclusive and meaningful reinterpretation of these religious symbols. By simply showing this inclusiveness, the courts would be creating inclusiveness.

Title: Steelers Win

Date: 2009-01-11T21:45:00.001-05:00

1/11/2009--In Hallowed Secularism there will still be football. I'll get back to the blog tomorrow.

Title: The End of Market Economics

Date: 2009-01-12T15:14:00.002-05:00

1/12/2009--In this month's edition of Portfolio.com, Michael Lewis, the author of Liar's Poker, has written an article entitled The End, which describes the deceit, fraud and ineptitude that contributed to the subprime mortgage crisis. Lewis describes the investment approach of Steve Eisman over the last few years. Eisman could see that these loans would default, so he shorted the market. In other words, Eisman profited from noticing what everyone else must have known but found it more profitable to ignore. Lewis describes Eisman's outrage at the selfish greed that motivated investment advisors and institutions to play games with the money of their clients without caring very much whether these investments would be a good idea for these people. Indeed, the money flow required that no one ask any probing questions, especially not the rating companies who acted in willful ignorance. None of these investment people will go to jail, apparently. At the same time I was reading this article, I was in San Diego at a law professors conference listening to Richard Epstein, Professor at the University of Chicago Law School, praising the private market and offering it as a model for African economic development. The conjunction of these two events really struck me. It occurs to me that the reason Epstein is so little shaken by the debacle of the past year—Epstein kept saying, "Don't blame me for these policies"—is that he is very little interested in how markets actually work, and very interested instead in how markets are said to work. Epstein is committed only to ideology. It is very hard to say that the market is efficient when it crashes so often. To be a serious market proponent these days would require some really hard thinking. And some policy innovations. But Epstein is not interested in that. We really do need a new approach to economics that does not go back to socialism.

Title: The Problem with Today's Church-State Jurisprudence

Date: 2009-01-15T16:56:00.002-05:00

1/15/2009—In his book, *Masters of Illusion*, Michigan State Law Professor Frank S. Ravitch points to the need for “pragmatic accommodation” to explain such things as the Supreme Court’s reluctance to remove the words “under God” from the Pledge of Allegiance. He writes, “the whole notion of pragmatic accommodationism is that there are certain areas where the normal doctrines do not apply. This makes a certain amount of sense given the religious nature of much of our populace. After all, to protect religious freedom in the broad range of cases there may be some areas that must be left untouched lest public backlash lead to the destruction of Establishment Clause values through amendment or less direct (and perhaps unconstitutional) means. This reflects the pragmatic notion that it may be unwise to fight a particular battle that may be winnable, but which could weaken broader Establishment Clause concerns, and thus lose the 'war'." This passage is symbolic of the problem with the law of church and state. Essentially, the legal establishment wants a secular public life, but knows that the great unwashed majority is too religious to stand for that. So, law professors and other legal thinkers try to get the courts go as far as they can in that direction without sparking a rebellion (as if a constitutional amendment could be destructive of constitutional values--maybe it would be reflective of proper constitutional values). You should know that you something is wrong when you are pushing a constitutional doctrine that dare not say its own name. The Court’s job is to announce constitutional values clearly and openly. That’s what the Court did when it protected flag burning. Then the people can either accept or reject the Court’s approach. That is the only kind of constitutionalism that is consonant with democracy. It is not clear to me that pragmatic accommodating is what Professor Ravitch himself is doing in his book. It is likely instead that he is just noting what has been happening. His description is accurate. But it is a recipe for public cynicism. Somehow, we need a law of church and state we can actually live with.

Title: The Tony Blair Faith Foundation

Date: 2009-01-17T13:32:00.001-05:00

1/17/2009--This month's Yale Alumni Magazine features Tony Blair and his new faith foundation. Blair is teaching at Yale and that is also where the US operations of the foundation will be headquartered. The story states that the main project of the Tony Blair Faith Foundation will be "to foster greater understanding among people of various religions" and "to make religion a force for good as globalization mixes together people of different cultures and faiths". Blair also states that faith should have a role in public policy. Undoubtedly the Foundation will foster good work, like raising funds for mosquito netting in the developing world. And, undoubtedly as well, it would be best if the forces of globalization were restrained by normative principles and not just by power. As Blair says in the article, religion can be a force for such normative counter force. The basic problem is that you cannot do work of this kind without clear theological thinking. Otherwise, you are saying that all religion is the same and that therefore people should be able to get along. Pope Benedict has shown both the promise and the limits of genuine ecumenicism. Believers do believe certain things are necessary for salvation. Non-believers are not saved, or the equivalent, not out of ill-will, but because of the necessity of religious belief. Tolerance and salvation are not the same thing, however. Pope Benedict does not say that non-Christians are saved anyway (actually he says no human being knows who is saved) but he does affirm that God's children should not kill each other over religious differences. Benedict's limited approach is probably more promising than Blair's idea that God would not exclude anybody. Nor is it clear what Blair means by religion. Here is how the article ends: "I have a complete belief that what most people want is a sense of spirituality and a sense of purpose derived from spirituality in their lives, and they don't want to exclude other people." This sounds more like Hallowed Secularism than like any religion I know. It lacks any sense of doctrine or even organization. Where this kind of formulation differs from Hallowed Secularism, however, is its lack of recognition of the power of justice in history. A feeling of spirituality is no doubt a nice thing, but as the saying goes, if you want peace, do justice. Jews and Muslims are fighting today in Gaza not because one or the other lacks spiritual feelings but because they do not agree on what is just.

Title: Steelers Win Again

Date: 2009-01-19T09:00:00.001-05:00

No report today. The Steelers are going to the Super Bowl.

Title: Inauguration Day

Date: 2009-01-20T09:44:00.002-05:00

1/20/2009—Among the other firsts for President Barack Obama is that he may be the first President to have been raised in a non-religious household. [I'm not sure this is so since Americans in the early 19th century were not as clear about these things as we are today. Religion was a fact of social life and so the formally non-religious were probably rare. The actually non-religious may have been common.] This is the tack the American Humanist Association is taking with regard to Obama. He is said to be "living proof that family values without religion build character." This is all in support of the rather touching slogan of the Association: "being good without a god since 1941". The Association even reproduces texts from *The Audacity of Hope* to make its point. But the text really illustrates the problem, rather than celebrating irreligion: "Without the help of religious texts or outside authorities, [my mother] worked mightily to instill in me the values that many Americans learn in Sunday school: honesty, empathy, discipline, delayed gratification, and hard work. ... Most of all, she possessed an abiding sense of wonder, a reverence for life and its precious, transitory nature...". Obama understands this was harder without organized religion, a point the Humanist Association doesn't seem to get. On the other hand, few Sunday schools instill a sense of wonder. What you also see here is that Obama's Christianity may not go very deep, or may be a kind of secular Christianity. Life is transitory, but there is no sense in this quote of what might come after—a key question, of course. The Humanists also trumpet another portion of Obama's book—his reference to pluralism. Obama clearly fears "the dangers of sectarianism". "[W]e are no longer just a Christian nation" but a nation of many religions and nonbelievers. In many ways, President Obama is a figure for a new America. I think of him as the first Hallowed Secularist. He is really not a humanist, for he is too close to religion for that. But he is no more a follower of organized religion than was Lincoln. I'm glad he is our new President and I wish him luck.

Title: Rick Warren's Prayer

Date: 2009-01-22T13:31:00.001-05:00

1/22/2009--A Newsweek story already has noted how Reverend Warren prayed in Jesus' name only for himself—the one who changed “my” life. But the real story of Warren's prayer is that we have not been able to build a tradition of inclusive public prayer in part because the United States Supreme Court is so wooden in its interpretation of the Establishment Clause. In 1992, in *Lee v. Weisman*, the Court had a chance to endorse inclusive prayer at a high school commencement. The Board of Education sent guidelines to the rabbi who presented the prayer—guidelines that would have limited some of what Rick Warren said at the inauguration. The prayer in the case was much more inclusive than the fairly Christian performance by Warren. The Court held the high school graduation prayer unconstitutional anyway. No prayer of any kind, no matter how inclusive, was to be allowed. This kind of ruling seems sort of silly today in light of the clear religiosity of the inauguration. The Court should be helping us build an acceptable sense of public prayer. By holding to the secular paradigm of the wall of separation and government neutrality toward religion, but then refusing to enforce those norms in a public setting like the inauguration, the Court is creating constant controversy, encouraging secularists it does not intend to really support and threatening believers with anti-religious precedent. If the Establishment Clause does not require government neutrality, then we would be better off in every sense and from every point of view, if the Court would say plainly what it does require. I hope it will be held to require not government neutrality toward religion but much stricter nonsectarian expression. God by all means, but not Jesus on public occasions. And, in the wholly inclusive words of Reverend Joseph Lowery, "Let all those who do justice and love mercy say amen."

Title: 10 Questions for the Author

Date: 2009-01-25T07:00:00.003-05:00

1/25/2009--The daily online magazine Religion Dispatches has sent me ten questions about my new book, *Hallowed Secularism: Theory, Belief, Practices*, which will be published in March by Palgrave Macmillan. I thought the answers might be of interest here.

10 Questions for Bruce Ledewitz, author of *Hallowed Secularism: Theory, Belief, Practice* (Palgrave Macmillan 2009)

- 1 I was inspired to write the book because I was the secular parent I am writing about. I was trying to figure out how to raise children and live a life without religion, when I believed that the institutional religions were right about a lot of things (like their views of humanism and materialism).
- 2 The most important take-home message from the book is that it is possible to believe most of the promises of the Bible—not of course supernatural promises like an afterlife—without believing in God.
- 3 No, I didn't have to leave anything out. Since this second book is part of a trilogy—the first book was *American Religious Democracy* (Praeger 2007) and the third book is being looked at by publishers in manuscript form right now—I had the whole series to work with.
- 4 The biggest misconception I am aiming to undo is one held by some secularists—those who believe this world is all there is—who tend to think that everything is obvious. Actually, much of reality is mystery. What used to be called God's hand in history is still there and forgiveness of sin still happens. Not believing in supernatural beings is the beginning of one's search for truth, not the end.
- 5 My target audience is young people who were raised outside the religious traditions.
- 6 My goal is to inform readers about the possibilities that familiarity with the religious traditions open up and thus change my readers' lives. The religious/nonbeliever divide is mostly bunk.
- 7 Originally the title of the book was to be *Hallowed Secularism: A Guide for the Nonbeliever*. I still believe that title communicates the message of the book.
- 8 I like the cover a lot, but it was expensive and authors sometimes have to pay that cost.
- 9 No, there is no other book I wish I had written. No book out there says what I wish to say.
- 10 My next book is going to be *For the Establishment of Religion*, which argues that government should be permitted to endorse the common core of religion, just not any particular religion. That legal change is necessary if the kind of changes I hope to see in secularism are to happen. I hope the book will be published before the end of 2009, but it is still being considered by publishers.

Title: Einstein and Darwin

Date: 2009-01-31T05:24:00.002-05:00

1/31/2009--Walter Isaacson's 2007 biography of Albert Einstein described Einstein's lifelong search for a unified field theory that would meld quantum mechanics and general relativity into one theory encompassing all forces at all levels—from to largest—as follows: "he was guided by a faith, which he wore lightly and with a twinkle in his eye, in a God who would not play dice by allowing things to happen by chance." Now, ignore the beingness of God inherent in that formulation. Perhaps for Einstein treating God as if God were a person was just a way of talking and thinking. We might say instead that Einstein had a faith that reality itself was not a chance event, and leave it at that. Religious people who worry about Darwin in public school are also unwilling to accept a universe that operates by chance, in this case not quantum mechanics but random mutation as the fuel for natural selection. These opponents don't realize that evolution need not be looked at that way. Evolution does not actually appear to be a matter of chance. Mutation may be random, but the timeline of the history of the universe is so immense that all possibilities become probabilities. Again and again, what is called convergent evolution yields analogous structures—wings in bats and birds, for example. And the slow steady movement over time toward animals with purpose—ourselves—is also an evolutionary fact. Anyone wanting more thinking along these lines should look to the British paleontologist, Simon Conway Morris and his 2003 book, *Life's Solution: Inevitable humans in a Lonely Universe*. The point here is that the religious opponents of a certain way of looking at evolution—as a result of mere contingency—should not be thought of as anti-science. They are no more anti-science in their faith than was Albert Einstein.

Title: Steelers Holiday

Date: 2009-02-02T19:02:00.003-05:00

2/2/2009--No blog today in honor of the national holiday always declared when the Steelers win the Super Bowl. (Don't laugh; Pittsburgh city schools were on a two-hour delay today). But if you want to catch up on Hallowed Secularism, you may want to read my essay, Obama and the Unbelievers: The Future of Secularism, on the online magazine Religion Dispatches, today:

http://www.religiondispatches.org/archive/religionandtheology/1028/obama_and_the_unbelievers:_the_future_of_secularism

Title: What is History Like?

Date: 2009-02-04T09:30:00.002-05:00

2/4/2009—One of the difficulties in developing Hallowed Secularism, both in thinking about it and in actually laying the foundation for a healthy secular civilization, is to understand the relationship of religion to history. Many secularists can accept “spirituality” as a genuine aspect of the human condition. Hence the description often heard that a person is “spiritual, but not religious.” But history as a category is not as easily accepted. The monotheistic religions are intensely historically oriented. Justice triumphs in the end, though as with the Hebrew slavery in Egypt, it may take longer than an individual’s lifespan for that to happen. Here is how Arnold Eisen, Chancellor of The Jewish Theological Seminary put it this reflecting on the surprising inauguration of President Barack Obama: “History is like this, the Rabbis taught: generation after generation and event after event accumulate without apparent recompense for sacrifice. History seems to lack purpose. It appears stalled. Then, ‘all of a sudden,’ something happens: things move. Setbacks follow. There is more work to do, more suffering to bear, more wilderness to slog through; but the fact that redemption happened once gives us hope. We wake up to the blessing of a new day and, free to stretch and stand tall, we accept the privilege to open eyes and push back walls. History seems malleable once again.” Our religions promise liberation. Some of our religions see that liberation in history. Materialism cannot make that claim. For it, history is just one thing after another. Even humanism has trouble with the category of history since everything depends on human beings. Our religions teach that the slave will go free and that this is etched in the heart of reality. Thomas Jefferson, religious to his core in this regard, once called this the book of fate. Martin Luther King, Jr., called it the moral arc of the universe. We must be sure that our secular civilization does not lose this sense of justice in history. Religion is more than the spirituality of the individual.

Title: The God Fight on London Buses

Date: 2009-02-09T08:41:00.002-05:00

2/9/2009--The Washington Post reported on Friday, 2/6, that three Christian groups are now placing ads on London buses proclaiming that God exists, in response to a "high profile atheist campaign", now spreading around the world, casting doubt on the existence of God. This controversy illustrates both the rapid growth of secular society and the intellectual bankruptcy of a secularism that thinks denying the existence of a supernatural being is important. In several developed countries—the United States, Canada, Britain and others—atheists have been putting ads like the following on buses: "There is probably no God. Now stop worrying and enjoy your life." An ad like this is silly on a number of levels. Just for one thing, surely many secularists would not worry, but would be overjoyed, if there were a loving God who intended to save both the world and individuals and who resembled in his ways Jesus of Nazareth. It's just that it's not true. Naturally, religious groups could not leave these ads alone. The Russian Orthodox response reads: "There is a God. BELIEVE. Don't worry and enjoy your life." Maybe this is witnessing to the Gospel, but I doubt it. As the West becomes increasingly secular, this sort of thing is going to happen more often. So it is important to state every time it does that God is more than a claim about a supernatural being. As Jack Call entitled his new book, *God is a Symbol of Something True*. John Caputo, the radical, post-death-of-God theologian, certainly no orthodox believer, writes in the new book, *After the Death of God*, that we must "cultivate the resources in this name [God]...and...let ourselves be nourished by their force" (50) because this name safeguards "the irreducibility and unconditionality" of the event of justice to come. [quotes from Jeffrey Kosky's book review in the *Journal of the American Academy of Religion*]. God means that something trustworthy in reality is beyond human control. That something might be the regularity of nature, the hospitality of this planet, the wise cunning of history, or the goodness embedded in our lives. Or it might be something else, or all, and more. To say God does not exist is almost juvenile. I don't want to claim the opposite—that God exists. I want to ask, what does exist? Dear atheist, What is real? This atheist ad campaign is more posturing. I keep waiting for secularism to grow up and begin the hard work of building a sustainable human civilization.

Title: A Politician Saves Us

Date: 2009-02-11T08:19:00.001-05:00

2/11/2009--No, I am not referring to President Barack Obama, who may or may not save us, but to Abraham Lincoln, who most certainly did save our country in a crisis far worse than a financial meltdown, however severe. William Safire's essay in the New York Time's book review section this last Sunday, celebrating the 200th anniversary of Lincoln's birth, reminds us that Lincoln saved us using the talents and skills of a politician: vision, rhetoric, hope, manipulation, shrewdness and so forth. The whole bag of tricks, noble and otherwise. Americans, especially young Americans, do not seem too enamored of politicians. Even Obama, who is an exception, does not seem to be inspiring people to enter government service—other kinds of public service maybe, but not government. I suspect one reason for this is the cult of the individual. We like to think that we make our own choices. But individualism is mostly bunk. Subject to the forces of heredity, culture and history, you and I are mostly a product. We make our choices only in a very confined context. As Charles Taylor put it in his book, *A Secular Age*, at one point in Western history it was nearly impossible not to believe in God; then at a later time, it became quite difficult. We don't control our context. One way in which I hope Hallowed Secularism differs from other kinds of secularism is a greater sense of organicity and community. We are a people, in fact largely the people Lincoln made us. We are not a collection of individuals. And we are going to deal with our current crisis as a people, or not at all.

Title: How Does An Atheist Prepare for Death?

Date: 2009-02-14T04:53:00.002-05:00

2/14/2009--That is the question Erica Jong—remember Fear of Flying?—asks in her New York Times review of Diana Athill's memoir, *Somewhere Towards the End*. As secularism grows, it is a question that more people will have to face. Athill is described as facing death "gamely". She knows she will not go on after death, but this is a "state of infinite possibility, stimulating and enjoyable—not exactly comforting, but acceptable because true." In other words, one prepares for death by living life truthfully. Actually, this answer to facing death turns out to be pretty much the same for both the nonbeliever and the believer. Aside from one petty gibe at religion: this "would never make me recruit anyone for slaughter"—as if the belief in a loving God would make the believer recruit someone for slaughter—this memoir seems to be filled with grace and wisdom, even with faith. After my own death, creativity and creation go on. The mystery of existence remains forever. Atheists feel superior to believers but we are all mostly in the same boat. Abraham, a believer, simply dies in Genesis. There is no heaven and there is no resurrection promised to him. What is promised is faithfulness to the promise he was given in life—his descendants will be a blessing to the people of the world. Or, if you will, creativity and creation will go on. He and Athill have some things in common. The real difference between the believer and the nonbeliever, including Erica Jong I suppose, is a lack of compassion and an amnesia about history in the nonbeliever. Diana Athill is one of these remarkable people who make me tired just hearing about them. What if my life has only been ordinary and not an adventure? What if I have betrayed all those who loved me for no particular reason? What if, in other words, I have been a human being? In that case, the Diana Athills and Erica Jongs of the world have no interest in me. But religion is different. Religion has a taste for ordinary human weakness. Secularism had better develop the same. There is also nothing in the book, or at least in the review, about history. Athill's life has all been about her interesting search for excellence. Her life has been all about her. But if life is not just one bit of creativity after another, if the universe has a moral order instead, then my life has to stack up in relation to something I do not choose or create. Reality, then, is not just something I contemplate, but something I serve. As usual, the question is not secular or religious, but the kind of secularism that is developing. We need a new type of secularism to engage death fully.

Title: Peter Steinfels on the New, New Atheism

Date: 2009-02-16T19:26:00.000-05:00

2/16/2009--On Friday, 2/13/2009, Peter Steinfels, co-director of the Fordham Center on Religion and Culture and author of a biweekly column, called "Beliefs" in the New York Times, wrote a column on new atheist thinking. Steinfels mentioned in particular Ronald Aronson's new book, "Living Without God" (Counterpoint, 2008), "The Little Book of Atheist Spirituality" (Viking, 2007), by André Comte-Sponville (which readers of this blog have already heard of) and Phil Zuckerman's new book on Sweden and Denmark, "Society Without God: What the Least Religious Nations Can Tell Us About Contentment" (New York University Press, 2008). The point of all these authors, despite their differences, seems to be "the incompleteness or tentativeness, the thinness or emptiness, of today's atheism, agnosticism and secularism." That quote is from Aronson, but Sponville would certainly agree. Aronson is much less mystical or spiritual than is Sponville but is in other ways quite religious in such themes as the meaning of death and the need for gratitude. What we are seeing in Steinfels' column is the birth of a new kind of secularism, one that is beginning to take seriously the responsibility of envisioning a sustainable and flourishing secular civilization. Obviously, Hallowed Secularism is another, and different, approach to that same goal. One thing is certain, the prediction in the book Hallowed Secularism that secularism is growing and would soon need to go beyond religion bashing is already coming true.

Title: A New Questions for the Author

Date: 2009-02-19T05:08:00.002-05:00

2/19/2009--The online magazine Religion Dispatches has asked that I expand on the answers to ten questions that I posted earlier. So, here are the additional answers. I hope readers can infer the questions. For the reader who asked about objective values, that issue is addressed briefly. I will be returning to it in future posts. It is a crucial question.

1. I have been trying to redefine the relationship between secularism and religion from one of opposition and tension to one of fruitful interaction. My first task was to try to show that America does not, probably never did, and probably never could have a secular democracy. I made that argument in my first book, *American Religious Democracy* in 2007. Shortly after that book came out, the Democrats fell all over themselves courting the religious vote in the 2008 campaign. So, in that sense the book was vindicated.

But it is also the case that the electorate in 2008 was the most secular in history. This was the continuation of an immense cultural change in America. During the period 2004-2007, a new phenomenon emerged in America, what *The Atlantic Monthly* would later call “mass-market atheism.” Beginning with, though with many precursors, Sam Harris—*The End of Faith*—in 2004, to Daniel Dennett—*Breaking the Spell*—and Richard Dawkins—*The God Delusion*—both in 2006, to Victor Stenger—*God: The Failed Hypothesis*—in 2007, to the culminating best-seller blockbuster, *God is Not Great*, by Christopher Hitchens, also in 2007, this period saw the establishment of a muscular and assertively anti-religious atheism that began to reach a popular market. This new reality reached its apex of public visibility when President Barack Obama included “nonbelievers” in his list of American beliefs in his Inaugural Address.

The question I am addressing in *Hallowed Secularism: Theory, Belief, Practice*, is, what is the nature of this new secularism going to be? Hitchens and his supporters want to lead secularists, many of whom know very little about religion, into opposition to religion. Instead, I argue that for secularism to be healthy, it must learn from the wisdom of the religious traditions. Not believing in God, afterlife or miracles does not exhaust what religion can teach.

2. The most important take-home message from the book is that it is possible to believe most of the promises of the Bible without believing in God. I have to remind readers at this point that I am not a believer myself. But consider the following question—when I assert that some action is cruel, do I mean simply that I consider it to be cruel or do I mean that it is in fact cruel? Most of us, believers and nonbelievers, mean the latter. This position is called the objectivity of values and C.S. Lewis considered it, and not belief in God, to be the core of a religious orientation.

The opposite position, that people invent values—that man is the measure of all things, in other words—is scarcely imaginable. One would have to say that the holocaust was not intrinsically wrong. One would have to imagine that chattel slavery could reappear in the world. Or that the liberation of women is something other than an eventual certainty. Genuine relativism is a hard position to hold and is not a basis for a flourishing secular civilization.

I am afraid that without the influence of religion, secularism will eventually succumb to a weary

relativism, or even nihilism. That is the fear as well of other secular thinkers, such as Austin Dacey, in his book, *The Secular Conscience*. My proposal is that secularists continue to learn from religion, especially the lesson that Martin Luther King, Jr., called, “the moral arc of the universe.” Religious symbols and language, such as redemption, salvation and forgiveness, can have real meaning for secularists.

3. No, I didn’t have to leave anything out. *Hallowed Secularism* is the second part of a trilogy. The first book was *American Religious Democracy: Coming to Terms with the End of Secular Politics* (Praeger 2007). In that book I dealt with the relationship of religion and politics. In this second book, I try to describe the life of a secularism that is open to religion. That left out changing the law of church and state to permit experimentation for religious symbols in public life, which is the subject I take up in a manuscript to be entitled, *For the Establishment of Religion*, which is now being looked at by publishers.

4. The biggest misconception I had to deal with in the book is the belief that the statement “I don’t believe in God” is some sort of final answer to the perennial questions of human life: who am I, why am I here, and what may I hope for? Actually, statements about belief in God tell one very little about reality, or even one’s belief about reality.

Just as one example, belief in God does not necessarily tell you anything about an afterlife or a Messiah or a plan for history. Abraham in the Book of Genesis, for example, believed in God and yet knew nothing of those things.

It may even be that the word “God” itself is a symbol for things secularists also believe, such as the power of goodness. Or the mysterious sense of oneness that often pervades our lives. Or the grace that permits us to make mistakes and receive second chances.

Atheists like Christopher Hitchens are busy trying to convince people that there is nothing to learn from our religious traditions. But those traditions are not simpleminded and they have been wrestling for centuries with questions you and I are asking right now.

5. My target audience is those people, particularly among the young, who were raised outside the religious traditions. Some of these persons know nothing of religion. Others know some things but not much. I am hoping to open these matters up. After all, we have to live; we have to raise children; we have to decide what is real and important. Rejecting religion is not exactly a life.

6. Obviously my goal is to inform. We are at a turning point in history in which secular civilization, which we have never had before, seems to be a likely future for humankind. But what will be the sources of depth in such a civilization since religion will not be its source? We secularists had better begin thinking about these matters in a way, in a hurry.

7. Originally the title of the book was to be *Hallowed Secularism: A Guide for the Nonbeliever* and that is still how I see the book, as a guide or starting point for people who cannot accept the stories of Our Religions but have a sense that there is more to reality than materialism and postmodern humanism can account for.

8. I like the cover a lot, but it was expensive and authors sometimes have to pay that cost. Anita Dufalla, who works here in Pittsburgh, did a wonderful job conveying the sense of different realms even in a purely natural universe.

9. No, there is no other book that says what I am trying to say. But I wish I had the scientific training of Simon Conway Morris in *Life's Solution*. He is able to convey the hidden depth of reality within the confines of accepted scientific discourse. I know that science and holiness are not really in conflict, but I don't know enough to show that.

10 My next book is *For the Establishment of Religion*, which argues that government should be permitted to endorse the common core of religion, just not any particular religion. That book will close a gap that my first two books have left open. If religion is to be accepted in public life, and if secularism is to be much closer to religion than it is at present, a new understanding of the separation of church and state will be necessary. That manuscript is finished and while I hope it will be published before the end of the year, it is still being considered by publishers.

Bruce Ledewitz is Professor of Law at Duquesne University School of Law. He is author of *Hallowed Secularism: Theory, Belief, Practice* (Palgrave Macmillan 2009) and *American Religious Democracy: Coming to Terms with the End of Secular Politics* (Praeger 2007). He has finished a manuscript about the law of church and state, to be entitled, *For the Establishment of Religion*.

2/21/2009—The following selection is from Paragraph 12—in only one ordering unfortunately—of the *Pensees*, by Blaise Pascal (1623-1662): “Men despise religion. They hate it and are afraid it may be true. The cure for this is to show that religion is not contrary to reason, but worthy of reverence and respect. Next make it attractive, make good men wish it were true, and then show that it is. Worthy of reverence because it really understands human nature. Attractive because it promises true good.” When Pascal writes the word “religion”, he may mean only Christianity and only belief in God. But he may mean instead something of the core of religion that many religions share, such as the objectivity of values and the compassion of existence. If so, he is describing the kind of religion that Hallowed Secularism intends to bring secularism into closer connection with. The situation among secularists today is in part as Pascal described. Many hate religion, although increasingly they are ignorant and indifferent. (That would not have been possible in Pascal’s day, given the dominant role of religion). As to the differences from what Pascal saw, some secularists today are afraid religion may not be true, as well as fearing that it is. That is, we don’t want to give in to the hierarchical discipline of any church, but we don’t want to live in an empty, meaningless universe either. There is a cure today, just as Pascal suggested. Religion, in the sense of its core, is not contrary to reason, (we might say today not contrary to science) and it is worthy of reverence and respect. If reality is good for us, welcoming to us, kind to us, we should be grateful. And pointing this out, makes the core of religion seem like something we would at least wish to be true, as Pascal says. The task then, after implanting this hope, is to show that it can be fulfilled. Or, as the book *Hallowed Secularism* opens, “Wouldn’t you like to live your life abundantly? ... Why don’t you?” Now the question is, who understands human nature best—the New Atheists, New Age religion, or the Bible? My money is on the Bible. In considering human beings, the Bible is just the right mix of good and evil. Materialism makes us out to be worse than we are, totally without generosity. All forms of humanism make us out to be better than we are. And there is something in reality that sometimes protects us from ourselves, just as the Bible says. It is pretty amazing that we have not yet blown ourselves up and we might still heat ourselves out of existence. Finally, who has the best word as to true good in our lives? What guidebook is best for the general direction of your life? What model of human being would you like to adopt? For me, it is the Bible and Jesus respectively, not that I actually do this, but then neither do most Christians. Apparently, things have not changed all that much since the 17th century.

Title: The Decline of Islam

Date: 2009-02-23T08:10:00.001-05:00

2/23/2009--At the height of the Wars of Religion, in the 16th and 17th centuries, it would have been difficult to predict that these wars, in which religious belief was so important, would become the beginning of the Great Secularization of the West. But the story was not surprising in retrospect. The conflicts between Catholics and Protestants delegitimized religion. People began to feel that if this is what religion led to, it might be better not to be religious and to limit the influence of religion. Something similar may happen in the Muslim world and more quickly than one might think. The victory of conservative Islamic forces, including the Taliban, in Pakistan's Northwest region has led by all reports to the demolition of over one hundred schools for girls. This one symbol is likely to delegitimize Islam as a normative force among young Muslims, and not just women. Of course, this one interpretation of Islam is by no means dominant in the world. But that is not the point. Neither was the killing in Europe normative. Rather, when injustice is perpetrated in the name of religion, the norms that become the standard for the future are no longer those of religion. They come from elsewhere. Most people in the world will see hostility to the education of women as intolerable. This act of destroying schools is nothing like the burqa, which some women choose as an antidote to Western sexism. This act is the unmasking of religion as injustice.

Title: Cost of Hallowed Secularism

Date: 2009-02-24T14:51:00.002-05:00

2/24/2009--I have been asked by a reader of this blog why the price of Hallowed Secularism: Theory, Belief, Practice, is so high. I just want to say to people who cannot afford to buy the book that I have no say in the price, which frustrates me as much as potential readers. The price will reduce readership. I can only suggest that people urge their public libraries to buy the book and read it that way. The book is being priced as if it were a textbook, which it is not.

Title: Reactions to the Religion Dispatches Interview

Date: 2009-02-25T04:28:00.002-05:00

2/25/2009--Because of the reach of the online magazine Religion Dispatches, and especially once Andrew Sullivan picked up the interview on his blog, there have been a lot of reactions on the Internet to the proposal for a Hallowed Secularism. This is all being done without anyone actually reading the book, of course, but the interview seems to me a fair capsule of the overall message. The discussion that is going on is probably reflective of what will be thought when people do read the book—at least those people who can afford it.

I have noticed two trends worth mentioning. One is the incipient atheist counterattack. Obviously Hallowed Secularism represents a goal for people with genuine religious yearnings. This is in a sense what hard atheism wants to stamp out of people. Such yearnings are felt to represent a sentimental unwillingness to face the emptiness and formal meaninglessness (I mean without purpose) of existence. Since yearnings are hard to combat, this attack seems to center on my claims that values are objective and that history contains a moral center.

I am not by nature a partisan. And of course I have no interest in defending error. So, I am not inclined to respond by defense. These are matters I am hoping to open up. If the claims of this kind of atheism are made explicit, I think they will be rejected as an inadequate account of human life and cosmic reality.

Let me just say here that it seems odd to me that when science investigates the physical universe, the atheist assumes that something real is being discovered. Even though knowledge is inexact and judgments and disagreements are common, no one calls the scientific quest subjective. No one says that the scientist is simply choosing among possible accounts. No one would think one account just as good as another.

But when the matter being investigated is morality, or broadly how we should live, the atheist assumes the opposite. I see no justification for this dichotomy. People do differ in their moral commitments, although not usually as much as the atheist claims. Yet over time, that is, in history, they don't differ very much. To take one example, humanity discovered something about chattel slavery. Absent a total discontinuity in human history, we will never go back to it. This discovery seems to me pretty similar to Newton's discovery of the laws of motion. Morality is not a matter of choice just because it is a matter of disagreement.

The other response is the claim that Hallowed Secularism is Deism, roughly the 17th Century belief in an absent Creator God whose plan for humankind unfolds without further divine intervention. While I can see why this parallel might be claimed, I never found Deism very helpful in religious matters. On one level, Deism is too rational. There is no real place for prayer or spiritual experience. Yet these experiences are common to human beings. In an opposite sense, Deism is too theistic, too wedded to the Creator God of the Bible. If there really is no being-like God with a plan, humans are stuck with the processes of the natural universe. This is the problem of the asteroid. Most Deists would claim, I think, that it could not be God's plan that humanity be destroyed by an asteroid. But the Hallowed Secularist believes that nature follows its own course, quite without that kind of pity. Deism was always too comfortable and reassuring to be true.

Title: Imagine the Court Being Helpful

Date: 2009-03-01T10:10:00.003-05:00

3/1/2009—Last Wednesday's decision by the United States Supreme Court in *Pleasant Grove City, Utah v. Summum* did not advance our understanding of the Establishment Clause because the majority opinion by Justice Alito resolutely refused to discuss the Establishment Clause. The case was decided on uncontroversial free speech grounds. In the case, *Summum*, a Gnostic Christian group, asked the City if it could donate a monument to be erected in a public park that already contained a Ten Commandments monument that had been donated by another private group in 1971. The City refused and the Supreme Court upheld that refusal. The Court's rationale, and there was no dissent on this point, was that when the government puts up something like a monument, the resulting display becomes the message of the government, not that of the private group if any that donated the monument. As "government speech" the government is usually permitted to endorse its own message and omit messages by everybody else, including here, *Summum*. But as everyone in the case was well aware, there are limits on permissible government speech. One such limit is that the government may not prefer one religion over another. Reasonably thinking that might be the case here, the City preferring the Bible's account of Sinai over the account offered by *Summum*, the religious group asked, if the Ten Commandments monument is government speech, what is it the City is trying to say? The real answer might have been, "only the Bible is true." Justice Alito sidestepped this Establishment Clause minefield by arguing that monuments don't have simple messages. He pointed to the "Imagine" mosaic donated to New York City in memory of John Lennon. Then he quoted the lyrics of the song. This was a beautiful moment in the opinion, and I mean that sarcastically. If Alito had quoted the lyrics of the Ten Commandments instead of tripping down memory lane with John Lennon, it would have been painfully obvious what message Pleasant Grove was probably offering. As readers of this blog know, what is needed is an inclusive account of these religious displays that does not endorse one religious tradition. Thus far, the Court has lacked the imagination and generosity to help America out of its culture war deadlock. For more, see my manuscript, *For the Establishment of Religion*.

Title: Holy Hullabaloo Over a Ten Commandments Display

Date: 2009-03-03T22:46:00.003-05:00

3/3/2009--Jay Wexler, a professor of law at Boston University, and the author of the upcoming Holy Hullabaloo: A Road Trip to the Battlegrounds of the Church-State Wars, (Beacon June 1, 2009) left a comment on the online magazine Religion Dispatches to the effect that the Sumnum case last week demonstrates the mistake that the Supreme Court made in holding in 2005 that at least some government sponsored Ten Commandments displays do not violate the Establishment Clause. Sumnum's desire to put on its own monument shows that Ten Commandments displays are divisive, argues Wexler. Now, it is not fair to criticize Professor Wexler for having a sense of humor and wanting to lessen the anger over church/state issues. That is what he apparently does in his new book and that is a good thing. On the other hand, there is a fine line between good-natured humor over our litigious culture, and making fun of bonehead fundamentalist right wing Christians, which is not really so funny and is what many secularists are wont to do. These public religious symbols mean a great deal to many Americans. It is an odd starting point that says that banning them is not divisive but allowing them is. That is only the case if the Constitution clearly bans public religious displays to start with, which is the question, not an answer. Law professors have a tendency to view these religious disputes from on high because, frankly, many law professors are not particularly religious. If one is not pious, it is easy to imagine a world in which religion is not promoted by public expression. But if one is pious, such a world seems ominous. This sounds like a criticism of Professor Wexler, which it is not. I haven't read his book and I don't know him or his religious leanings. But I think church and state will be funnier when we have found an inclusive constitutional interpretation of the Establishment Clause.

Title: Impressions from Day 1 of the New School Religion/Secular Conference

Date: 2009-03-06T05:05:00.002-05:00

3/5/2009--Greetings from NYC, where the New School for Social Research is hosting a Conference on the U.S case of the religious/secular divide. Many big names are on the program and the presentations are impressive. Yet, my overwhelming reaction is disappointment.

I thought coming in that the point of the Conference would be to examine the presumptions of secularism and assess their adequacy. Thus, religion and secularism would appear as equals, and the worldview of each would be subject to critique. There were panelists who could have done this, such as Jose Casanova, who spoke on Secularism as an ideology.

Instead, the Conference has treated secularism as already an adequate way of encountering the world, without even raising the question of whether that is truly so. The organizers seem to share that view and those attending the Conference also seem to share it.

This is important to me because my efforts to reform secularism, to open it up to religious insight, are dependent on an understanding that secularism's assumptions are not simply naively true. Thus, my recent post on Huffington (The Fight for the Soul of Secularism, http://www.huffingtonpost.com/bruce-ledewitz/the-fight-for-the-soul-of_b_171629.html) was met with the usual comments about people creating their own meaning and values, the emptiness of spiritual experience, and the harm and irrationality of religion. I thought this high-powered Conference would begin the process of throwing these, and other, assumptions into question.

It has been quite the opposite. The most powerful voices at the Conference have been Charles Taylor and Daniel Dennett. Dennett presented his usually powerful coherent defense of materialism and science as whatall that is real. ("What you are, your presumed self, is actually an alliance of machines in your brain"). There was no one to take him on at that level, no one to expose the hidden, and not even hidden, ontology that Dennett is pushing. There was no one who even tried to show that these assumptions are not themselves science, but faith claims.

Taylor was even worse in a way. He proposed dissolving the religious realm altogether, leaving all claims of conscience on an equal footing before the secular state. Taylor could not see that his vaunted value of the neutral state is impossible and even silly, since the state already endorses capitalism and nationalism, among many other values.

This became very clear when, in response to a question from the audience, Taylor stated that an uncompromising pro-life position is anti-democratic, presumably because it refuses to put the personhood of the unborn to a vote and genuinely accept the result. Taylor would have called Lincoln anti-democratic because Lincoln refused to accept Douglas' proposal of popular sovereignty as the answer to the slavery issue. One cannot vote on the humanity of the slave, answered Lincoln. The membership of the human family is a precondition of democracy, not an issue democracy can resolve. Just so in abortion. Fundamentally, the two sides differ over who is a human being. Democracy functions only after that question is resolved. Neither side in that debate is more democratic than the other. My objection is that Taylor's defense of neutrality and conscience masks just such power-plays and not just about abortion.

Title: Day 2 of the Conference

Date: 2009-03-07T07:33:00.001-05:00

3/7/2009--Day 2 of The New School Conference on the Religious/Secular Divide in America went in a somewhat surprising direction. The second day was devoted to politics past, present and future. Plainly, the moderators, and probably also the Conference organizers, expected to hear discussion of church/state issues, such as the word God in the Pledge of Allegiance. But this did not occur. Most of the speakers were expecting new kinds of interactions of religion and secularism in the future. There was a great deal of hostility to religion in the audience, but very little on the podium. Most, although not all, of the speakers took their own secularism or weak religiosity for granted but did not seem in a mood to directly challenge the place of religion in America. There seemed to be a turning away from legal challenges, and even direct political action, to mutual cultural enrichment. This was not quietism, but perhaps a parallel to Obama-like post-partisanship. One theme addressed only by one speaker was the role of Muslims in the U.S. I guess that most people did not expect hostility toward Islam to be any more of a problem for America than earlier hostility against Catholics, Jews and Mormons. That is, any overt discrimination would be quickly prohibited. It is remarkable that Americans, even in the middle of the War on Terror, do not expect the kind of problems that Europe and Canada are having over head scarves and other manifestations of Muslim identity. Maybe we have more to be thankful for in our constitutional tradition than we usually admit. I was disappointed by the failure of the Conference to address the facts of religion and secularism on the ground. One questioner asked whether religion would lose support in the future and the panel said no. Obviously, this is not how things look to me. Because the speakers did not anticipate fundamental sociological changes, they had no reason to consider the future of secularism in a serious way. So the central question of the sustainability of a genuinely secular society just did not come up. But that question is the one that will dominate the future.

3/9/2009—The new American Religious Identification Survey (ARIS) released today shows both the rapid secularization predicted by my book, *Hallowed Secularism*, and the emptiness that the book seeks to address. The study, sponsored by The Program on Public Values (somehow related to the Institute for the Study of Secularism and Culture) at Trinity College in Hartford, was reported as the first since 1990, but there are also figures from 2001. The basic numbers are astounding. Just about every religious category shrank since 1990 while the “No religion” category grew from 8.2% to 15% of the population. Even that number may be an understatement, since the category, “Don’t Know/Refused (to answer)” also grew, from 2.3% to 5.2% of the population. One would have to assume that some of the people in that category are secular as well. So the total number of secularists in the population may be closer to 18%, or about 40 million people. While America remains overwhelmingly a Christian country—about $\frac{3}{4}$ of the population identifies with some form of Christianity in the survey—secularism is now a mainstream phenomenon. As my book *Hallowed Secularism* suggested, this secularizing trend is likely to continue because secularists probably represent a younger cohort of the population than do religious people. In addition, at least for the moment, it is much more likely that the children of secularists will remain secular than that the children of religious people will remain religious. Unfortunately, the stories about the Survey also demonstrate the emptiness of this new secularism. Barry Kosmin, co-researcher for the Survey, was quoted in *USA Today* as follows about the no religion group: “These people aren’t secularized. They’re not thinking about religion and rejecting it; they’re not thinking about it at all.” What then is replacing religion as a source of meaning, a guide to action and a lens for history? Apparently nothing. The same story quoted Kosmin more generally, “More than ever before, people are just making up their own stories of who they are. They say, ‘I’m everything. I’m nothing. I believe in myself.’” Given what we know about ourselves, and especially given the bloody 20th century, is there any justification for such unwarranted belief in oneself? The biblical account of the fall seems a much more realistic starting point. It may be that Americans are not only ignorant and rejecting of religion, but of history, literature and philosophy too. At some point, this is just shallowness, not liberation from dictatorial religion. I repeat here what I wrote in the book. Rejection of the supernatural makes sense. But rejection of the wisdom of Our Religions is crazy.

Title: Stem Cell Research

Date: 2009-03-13T07:52:00.001-04:00

3/13/2009--Last week President Obama dropped Bush Administration restrictions on stem cell research. This research usually destroys a human embryo. Since I think a human embryo is an early stage of an existing human life, I oppose this change. The fact that such research is scientific makes no difference to me. The Nazis conducted real scientific research on human subjects too. It never occurred to me to ask whether their research might save more lives than it took. Some people who support stem cell research do not agree with me and think that these embryos are the equivalent of any other cells. I have no beef with them. They are just mistaken. They are not immoral. Of course, they should not object to grinding the embryos up for cattle feed, or using them for electricity generation, like the Matrix movies. But many people, including President Obama, apparently have moral qualms about the destruction of human embryos, even if it potentially helps others. These are the people who emphasize that the embryos are going to be destroyed anyway, which they are. These people remind me of the Chinese government reportedly harvesting organs from condemned prisoners. Such moral blindness is worse than simple intentional evil. The problems with this position are basically two. First, as long as the destruction of human embryos is pointless, there is the possibility we will wake up and stop it. Stem cell research justifies the creation and destruction of human embryos in fertility treatments. Once that happens, there is no chance that the practice will be halted. Second, as Marx might have said, stem cell research turns human embryos into a valuable commodity. I don't know yet what uses capitalism will come up with for them, but don't be surprised if big money eventually produces embryos just for these uses. Satan without horns is hard to see.

Title: Proposition 8 and the Threat of, and to, Religious Liberty

Date: 2009-03-16T16:02:00.002-04:00

3/16/2009--The online magazine ReligionDispatches ran a piece today in which I discussed the likelihood that the California Supreme Court would accept the will of the voters and uphold Proposition 8, thus overturning the court's earlier decision validating gay marriage in California. You can access the piece at

http://www.religiondispatches.org/archive/sexandgender/1212/the_great_secret_of_constitutional_law%3A_why_proposition

comment on the piece caught my eye—the claim that opposition to gay marriage is illegitimate because it reflects essentially a religious position. There were a number of claims about the relationship between Proposition 8 and religious liberty that were made during the campaign before the vote. They struck me as quite dubious. Supporters of the effort to overturn gay marriage argued, and this argument may be the only reason Prop 8 passed, that the legalization of gay marriage threatened the religious liberty of conservative Christians who consider gay marriage to be immoral. I never understood this argument. There are many things that are both legal and immoral. Most pornography, for example, is protected by the first amendment, but people, including ministers, still have no problem asserting that the possessions of pornography is immoral. I could also point to gambling and drinking. That claim by Proposition 8 supporters was just false and it would be a shame if that false claim sealed the fate of gay marriage in California. On the other hand, there is nothing illegitimate about voting one's religious commitments. If there were, Martin Luther King Jr.'s opposition to segregation would have been illegitimate. As another example, many people who support the criminalization of prostitution do so because of religious scruples. Surely no one thinks that we have to come up with some other reason than that or be forced to legalize prostitution.

Title: Hallowed Secularism—Hints and Portents

Date: 2009-03-19T15:11:00.000-04:00

3/19/2009--Sometimes it appears that Hallowed Secularism is catching on. Here is one such portent. Theodore Ziolkowski, Professor Emeritus at Princeton, has written *Modes of Faith: Secular Surrogates for Lost Religious Belief* (U. Chi. 2007). I just read a beautiful review of what must be a wonderful book by David Jasper in the *Journal of the American Academy of Religion*. Jasper is an Anglican priest and theologian, and currently Professor in Literature and Theology at the University of Glasgow, Scotland. Jasper writes that Ziolkowski is doing what a number of writers are doing, "trac[ing] the dissolution of forms of belief and the emergence of alternatives that mark not so much the absence of religion but the exploration of new options and avenues that might sustain the hunger for belief and meaning in contemporary life." Ziolkowski does this in a unique way, through literature of an earlier period, that of the late 19th and early 20th century. He looks at 30 writers of the period who display a loss of faith in religion, usually Christianity. Ziolkowski finds "new modes of faith" through these writers, all sorts of things, from eastern religion to socialism to art to even reconversion. The keynote of this book, writes Jasper, "is failure." "We cannot do with religion and a 'mode of faith,' but neither can we do without them. Utopias become dystopias, the vision corrupts, art becomes an escape, India a dream, myth a word that we continually seek to recover as valid, but then inevitably it slips back into the negative as in I Timothy 1:4, in which we are bidden not to waste time on myths and endless speculations. Even the renewal of old ways seems to offer little genuine consolation in a disenchanting, fragmented world." Hopeless and harsh. Yet, why does Ziolkowski bother to write? The old hope does not disappear.

3/22/2009--The program yesterday at Duquesne Law School, a three-hour continuing legal education program featuring my work in the area of religion and American life, has led me to a recapitulation of my understanding of the meaning of the Establishment Clause of the first amendment. First, there is no political wall of separation between church and state. There could not be in a democracy. Believers are free to promote policies in the public square on any basis they like, including arguing that a particular policy reflects divine will. Thus, religious support for Proposition 8 in California, opposing gay marriage, should not be characterized as a violation of constitutional principle, imposing religion on people. We vote on policies in this country and if you lose, you lose because democracy has imposed a policy, not because religion has done so. Religious believers are even free to recommend policies that other people think violate constitutional rights, as long as we all understand that eventually that matter will be settled by the courts. On the other hand, there is a constitutional wall of separation between church and state, so that when government speaks, as in the Pledge of Allegiance, or putting up public Ten Commandments displays, it must speak in universal terms. Universal means that the message must be aimed at all, not that everyone agrees with the message. So, the government may not urge people to believe in God or accept the biblical account of Sinai. Thus, we are entitled to ask, "What is the universal message behind the sectarian language of the Pledge of Allegiance and the Ten Commandments?" I think there is such a universal message. The word God means far more than the Creator in the Bible. The word may stand for the claim of the universality and objectivity of fundamental values or the acknowledgment of gratitude for the ceaseless creativity of the universe. The Ten Commandments may stand for the claim that our rights are inherent in our humanity and need not be justified to human power. Even if some religious believers would take these sectarian images to be endorsements of their particular religious traditions, it would be a helpful to force the language of universal messages into these Establishment Clause controversies. Eventually, all Americans might come to agree that when the Government speaks, it must speak to all.

Title: Another Reason to be Secular

Date: 2009-03-23T21:47:00.000-04:00

3/23/2009—Want another reason why the young are turning away from religion? Look no further than the New York Times story on March 22, in the Week in Review Section. The story tells how Orthodox Jewish influence is growing in the Israeli army and how its teachings influenced some military in the Gaza fighting: A Religious War in Israel's Army, by Ethan Bronner. Some of the damning facts are not really in dispute. In Israel the ultra-Orthodox are exempt from military service. But modern Orthodox are not. As leaked by Dany Zamir, an investigation of alleged army atrocities in Gaza, including unnecessary civilian deaths, revealed testimony like the following: "the rabbinate brought in a lot of booklets and articles and their message was very clear: We are the Jewish people, we came to this land by a miracle, God brought us back to this land and now we need to fight to expel the non-Jews who are interfering with our conquest of this holy land. This was the main message, and the whole sense many soldiers had in this operation was of a religious war." The military's chief rabbi, Avichai Rontzki, publicized this slogan from a classic Jewish source: "He who is merciful to the cruel will end up being cruel to the merciful." There is a religious left in Israel that argues against these interpretations of the Jewish tradition. But, from the point of view of the young, who needs a religion that can be interpreted to promote hatred and violence? Better to be secular.

Title: The Economic Failure of Our Religions

Date: 2009-03-26T08:44:00.001-04:00

3/26/2009--In the book *Hallowed Secularism*, I suggested that one of the reasons that secularism is growing is that religion has failed the tests of modernity, including the acceptance of science, the role of women and the treatment of gays. I still think that is the case, but there is another feature that may be more important, the failure of Our Religions to address the need for a new worldwide economic system. Beset by cultural issues, especially those relating to sex, the religious voice on the current economic downturn has been muted. At the G-20 meeting next week, there will be talk of restructuring the world's economy, but it will be technical and political: the role of the dollar as reserve currency and the place of the United States. The real issue will not be addressed: Has this recession finally put an end to the exclusive capitalist model of development? Since socialism has never succeeded, is some third way possible? The Catholic Church used to talk seriously about that very topic, but now all we hear about is condoms. We can do better as a species than the dogged road of unsustainable consumption. But until Our Religions get serious about economics, there will not be a contrary voice at the world financial table.

Title: The Dalai Lama and Secular Ethics

Date: 2009-03-28T09:08:00.000-04:00

3/28/2009--In an important article about Chinese repression in Tibet, published in the New York Review of Books' April 9, 2009 issue, Pico Iyer mentions the favorite lecture topic of the Dalai Lama: "secular ethics"—the logical basis for thinking of others, whether or not you have a religion. This reference raises the question of how we will think about ethics in a future, secular world. This question is not unrelated, in the mind of the Dalai Lama, to the issue of Tibet's future. In his view, China will eventually face the same spiritual emptiness that the West faces now: "the Dalai Lama has seen one country after another—in the West and more recently in places like Japan and Taiwan—gain prosperity and modern institutions and then come to him asking what to do with their sense of emptiness, their broken families. At some point, he suggested, China is going to have to find something to support it at some level deeper than just growth rates." That something could very well be, not Tibetan Buddhism as such, but the Buddhist tone that might lead China away from its burgeoning materialism back to its own spiritual roots. This is not a matter of the separation of church and state. The Dalai Lama says that he supports such separation in the political sense. There should not be in Tibet any merger of religion and government. That would mean the end of the institution of the figure of the Dalai Lama as such. But of course that political separation does not mean spiritual separation. This is a mistake that American courts are prone to make. Public references to religious values are not a violation of the separation of church and state. That separation should be an institutional separation only. I'm sure the Dalai Lama hopes that all government leaders, and voters too, will be motivated by the deepest spiritual values and that public policy will promote such religious and spiritual values.

Title: Religion Can Be the Worst Secularism

Date: 2009-03-31T10:57:00.002-04:00

3/31/2009--In today's New York Times, Michiko Kakutani reviewed the book, *God Is Back*, by John Micklethwait and Adrian Wooldridge, who both work at *The Economist*. Kakutani describes the book's central message as follows: [They] argue that religion is "returning to public life" around the world, that "the great forces of modernity — technology and democracy, choice and freedom — are all strengthening religion rather than undermining it," that these days "religion is playing a much more important role in public and intellectual life." They assert that "religion is becoming a matter of choice," something that individuals themselves decide to believe in instead of something imposed upon them, and that "the surge of religion is being driven by the same two things that have driven the success of market capitalism: competition and choice." Kakutani calls this argument "unpersuasive" and "poorly argued" because, as the recent American Religious Identity Survey shows, secularism is growing. In this way, Kakutani makes a false criticism and ignores the real problem with the book. Religion can be growing in global public importance, which it obviously is, while at the same time, secularism is also growing. How can this be? Because secularism is still quite small. The ARIS, for example, to which Kakutani referred, shows that secularism has doubled in America since 1990, but only to 15% of the population. The criticism Kakutani should have leveled is that the phenomenon the authors point to is not religion. It is capitalism. Specifically, it is consumer choice in religion. Kakutani does call some of the churches Micklethwait and Wooldridge describe "suburban malls" rather than houses of worship, with day care centers, bowling alleys, food courts and all the rest. But the problem is not the amenities but the message. Religion calls on us to confront reality, no matter how unpleasant that reality may be. This is true of sin in Christianity and of suffering in Buddhism. Real religion tells us what to we should do. Real religion is not a matter of choice, ever. Micklethwait and Wooldridge are aware of the power of this criticism. They claim that the hard stuff is inside and that the marketing is outside. But they cannot have it both ways. Either growing religion is a function of "pastopreneurs" "compet[ing] for market share" among customers "who apply the same consumerist mentality to spiritual life as they do to every other aspect of their experience" or it is a function of a genuine change in spiritual life. Since the authors believe it is the former rather than the latter, it really doesn't matter whether religion is growing. This sort of religion is the worst kind of secularism.

Title: The Secular Mind on the Huffington Post

Date: 2009-04-02T08:33:00.001-04:00

4/2/2009--Since I began to blog semi-regularly on the Huffington Post, I have seen attributes of the secular mind that I intuited in my book, *Hallowed Secularism*, but had not encountered regularly before. My blogs always say about the same thing: that secularists should be more open to religious wisdom, symbols, language and images, that secularism needs these things to become a flourishing civilization and that nothing about this kind of borrowing threatens legitimate secular values. The somewhat heated responses usually run in the following channels. (I'm not going to respond to these perspectives at any length today. That requires more space.) "I don't need religion to be a good person". Daniel Dennett told a New School audience just this in New York City last month. I address this point in *Hallowed Secularism*, in which I suggest that there really are very few good people in the world, and even if religion does not produce much goodness, secularism doesn't produce any more and maybe a lot less. People who talk this way are not confronting the issue of how to raise children. If you don't need religion, you need something. So, what will secularism do for that something?" "The framers of the Constitution separated church and state". Considering that many of the people who respond to me are pro-choice and pro-gay marriage, this assignment of sovereignty to history is just odd. In any event, that history is by no means clear. Thanksgiving to God is an old United States tradition. "Religious believers should not force their beliefs on others". This is really the heart of the matter. Secularists often think of religion as a personal matter. The believer can always pray privately, so why should any public manifestations of religion be thought necessary? But, as Justice Scalia likes to say, this view ignores the fact that there is a clash of values present in church/state controversies. Believers often think of their religion as social, rather than private. Think of the plagues of Egypt. Slavery was a public issue and its justice was a religious issue. A certain kind of religion can be relegated to private life, but not anything like biblical religion. That kind of religion is inescapably public.

Title: The Two Cultures, 2009

Date: 2009-04-04T08:35:00.002-04:00

4/4/2009--It was 50 years ago that C.P. Snow delivered a famous lecture at Cambridge entitled, "The Two Cultures and the Scientific Revolution", which he later turned into a book. The two cultures he had in mind were science and literature. Literary scholars knew nothing of science. The complaint was not about two cultures, really, but was, as Peter Dizikes wrote in the New York Times Book Review on March 22, that science was not being received. We can think of two cultures today as well. Since the influence of all the arts has declined since 1959, the two cultures today are science and religion. I don't know many scientists, so I am not sure whether scientists as a group are cut off from religion and religious thinking. I do know that students of religion are not cut off from science. At least since Pierre Teilhard de Chardin, the Jesuit Priest and paleontologist, theologians have known that coming to terms with science is a key theological project of the modern age. Where we see the two cultures cut off from one another is among those who do not know the best thinking of either one. Average religious people do not know science and some seem prepared and proud to reject it. Average secular people who are often admirers of science but know little about it, can be hostile toward all things religious. These two sides are visible in the culture wars, especially the fight over teaching evolution. The divide between science and religion does a great deal of harm to both sides. When religion contradicts the sense in a culture of what is possible, it opens itself to irrelevance. This may be part of what is happening today in America among the young. While it is true that religion at its best always contradicts common sense—Jesus did not "look out for number one"—it cannot contradict the plausible worldview of a society. If the Gospel stands or falls on whether the eye could have evolved naturally through evolution, the Gospel is doomed. The harm to secularism is even more pronounced. The search for scientific truth may be a beautiful way of life, but it is not one that most people are currently pursuing. If non-scientists reject religion in the name of science, they just end up with flat materialism and unrealistic humanism. For most of us nonscientists, it is religion rather than science that helps orient us in the universe and ask the big questions—who am I, why am I here and how am I to live? Even if science has a great deal to contribute to the answers to these questions, it is not well suited to leading us to ask them.

Title: No Constitutional Right to Shoot Police Officers

Date: 2009-04-06T21:02:00.002-04:00

4/6/2009--Justice Antonin Scalia's opinion for the Supreme Court in *D.C. v. Heller* (2008), recognizing a right to possess a gun in one's home for purposes of lawful self-defense, had little to do with the paranoid rhetoric that led to the horrific shooting of three police officers in Pittsburgh last Saturday. The shooter, Richard Poplawski, apparently subscribed to hate group websites, denounced Blacks, Latinos and Jews, and fanaticized about President Obama taking away his gun rights. Poplawski was heavily armed and protected by a bullet-proof vest when he gunned down the three unsuspecting officers. After some hours, Poplawski, lacking the courage of his announced commitment to die in a shoot out with police, surrendered. It says a great deal about the Pittsburgh police that Poplawski was permitted to leave his house alive. Aside from Poplawski himself, who is responsible for these shootings? The *Heller* case had nothing to do with the gun-rights rhetoric one often hears in this country. Justice Scalia did not invoke Hitler's confiscation of the weapons owned by the German people. Scalia was nowhere suggesting a right of violent resistance against government authority. All that is protected, wrote Scalia, is the right to bear arms for traditional lawful purposes, such as self-defense within the home. Yet we hear people actually claim that the amendment protects weapons to be used against our own government. Given the *Heller* case, one can no longer deny that there is a constitutional right to bear arms. Undoubtedly some gun control programs are therefore unconstitutional, as was the D.C. law struck down in *Heller* itself. But there is no right to bear arms against the government. And it is time to confront the violent rhetoric, sometimes enunciated by otherwise reputable leaders, that leads someone like Poplawski to shoot police officers in the name of an imagined "right to bear arms." The Second Amendment is not the basis of all our other rights. It is not an ace in the hole on an imagined day that our government becomes a dictatorship. The Court has held that it is a right to hold a criminal at bay while one calls the police. It is not a right against the very same police.

Title: The Hard Secular Mindset

Date: 2009-04-09T09:14:00.001-04:00

4/9/2009--I have now had the experience several times of blogging on The Huffington Post and receiving a substantial number of the same kind of response—what I will call for now the hard secular response. I think these responses are revealing of a certain type of secular mindset. I don't mean to suggest that the views expressed are defective. I don't agree with them, but my point here is to begin to think about them as a place where some, maybe many, secularists are now. The starting point for hard secularism is that religion is superstition and that nonreligion is scientific or evidence based. In other words, religion is a total negative. This is the Christopher Hitchens' view. Obviously, people who feel this way have no use for my premise in *Hallowed Secularism* that secularism needs religion in some way. What is odd to me about this view is that it seems to find human life self-evident. I used as an example in the blog Daniel Dennett's statement that people don't need religion to be good. I suggested that our religions don't claim that they make people good. They mostly, especially Christianity, emphasize that people are not good and that they need help. I stated that this is the more realistic view. Most of the commentators, however, agreed with Dennett. People are mostly fine. I find this hard to believe given recent human history. Religion is also much more scientific than the hard secular mindset wants to admit. But more of that later.

Title: The Victory Over Death

Date: 2009-04-12T15:32:00.002-04:00

4/12/2009--Happy Easter to any Christian readers of this blog. Certainly, the Christian claim of victory over death is the key difference between Christianity and secularism. That claim has two aspects. One is the promise of an after-life in heaven. Surprisingly, this is clearly not what the early church thought Easter symbolized. Easter represented the preview of Christ's second coming when the faithful would all be resurrected, as Jesus had been. His resurrection had been the "first fruit" of the promise, as Paul put it. This early church understanding reflected the Jewish foundation of Christianity. By the time of Jesus' birth, many Jews had begun to expect a Messiah and an end time in which God would bring resurrection to the dead. But the Jewish understanding of heaven had not been worked out (indeed it never has really been worked out in Judaism). There are Christian writers, or writers out of a Christian perspective, such as Peter Berger, for whom this ultimate promise of victory over death is the crucial difference between the believer and the nonbeliever. But I wonder if this is true. If, as I expect, the West becomes ever more secular in orientation, this change may be reflected in an insistence that the natural laws of the universe are invariant. One of those laws is that life is physically based. There cannot be a heaven because our personalities are a part of the physical world. There is no Bruce Ledewitz without the body of Bruce Ledewitz. Thus, there cannot be a continuation of personality after death. This physicality rules out resurrection as well. If this view begins to infect even Christian believers, a kind of secular Christianity may begin to emerge. Indeed, such a Christianity may not even be distinguishable from Hallowed Secularism.

Title: What Can the Courts Do About Gay Marriage?

Date: 2009-04-16T08:10:00.001-04:00

4/16/2009--I wrote an entry on The Huffington Post yesterday concerning the routes taken by Vermont and Iowa to legalize gay marriage. I praised the legislature in Vermont and criticized the State Supreme Court in Iowa, although they got to similar results. I suggested that the result in Iowa might bring conservative politicians and the Republican Party back into power. This criticism is part of my general view that courts should not attempt to resolve social issues until something of a consensus begins to emerge among the public. The comments in Huffington suggested that I am willing to sacrifice the interests of gay people to other progressive causes. I can see how people might get that impression. So, I want to say here what I may have left out there: it is not just that courts should not impose views contrary to that of settled majorities in the nation, but that they cannot. Such judicial efforts will fail. We see this in America already in that some 30 states have now placed barriers to legislative pro-gay reforms in either the State Constitution or the statute book. Many of these efforts pointed to legalization by court decision as a reason to remove gay marriage from ordinary politics, where it belongs. In Iowa itself, the court decision may be reversed by a constitutional convention, which is an effort the Democratic legislature cannot block. Such conventions are very unpredictable. I'm not sure anybody will be happy with that result should it occur. I am not the first to cast doubt on the heroic thesis that the courts can change fundamental political outcomes. The political scientist Robert Dahl made the same argument in the 1950's. The courts are not all-powerful in a democracy, nor should they be. Courts can only lead. This means in regard to gay marriage, like other controversial decisions, that such decisions will be lasting if they are ultimately persuasive. I see little evidence that judges even appreciate that aspect of their roles. Courts are a part of political change, not something apart from it.

Title: America is not a Christian Nation

Date: 2009-04-17T20:35:00.000-04:00

4/17/2009--President Barak Obama stirred up controversy by his statement at a news conference in Turkey that America is not a Christian nation. On one level, controversy over this statement makes no sense. Whatever the Establishment Clause means, it certainly means that much. There is not one vote on the Supreme Court today that would allow Congress to declare that we are one nation "under Christ". Every Justice at one time or another has declared a willingness to prohibit sectarian symbols sponsored by government. So, why the controversy? Of course America is a Christian country in absolute numbers and in its history. Most Americans are Christians and despite growing secularization and religious pluralism, that is going to remain true for quite some time. Our national habits of mind, such as our exceptionalism and our desire to save the world, are gifts of our Protestant heritage. But still, we are not a Christian nation in any official sense. Religious conservatives don't really believe that Obama's statement is untrue. Most such persons—Justice Scalia is a perfect example—would say we are a Judeo-Christian nation or perhaps a monotheistic nation. Even if that extension strikes the secularist as arbitrary, it still does not make us a Christian nation. So, Obama's statement is still accurate. I think what is bothering some religious people, or at least some of those I speak with, is the sense that there are only two choices open to us as a nation. Either we are a Christian nation or we are a nation of materialism, post-modern humanism and nihilism. I don't mean to use those words as smears. I mean to identify some very specific habits of mind. The late Richard Rorty fits here. So does Christopher Hitchens. And many secularists are guilty of supposing that government may not only not establish religion but may not oppose these philosophic positions either. My argument in the manuscript I have not yet found a publisher for is that government may indeed oppose these schools of thought and should do so. Government may endorse the objectivity of values. I even go further and suggest that government may use some traditional religious symbols in doing so. Given that reassurance, many people can accept that we are not a Christian nation.

Title: Why Do We Need Religion?

Date: 2009-04-21T19:26:00.002-04:00

4/21/2009--The fundamental claim of Hallowed Secularism is that our rapidly growing secular culture will require continuing contact with religion in order to sustain flourishing human civilization. This claim elicits disdain among some secularists. Why do we need religion, they repeatedly ask. I am slowly working on vocabulary to illustrate the need for religion to secularists who have both a truncated and unrealistic idea of what religion is and a seemingly naïve view of what it takes to sustain culture. It is not easy. In this entry, let me concentrate on the relativism of values. In American Babylon, the late Richard John Neuhaus attacked the thinking of the late American philosopher Richard Rorty who argued that we make up morality and that there is no way to privilege one citizen's first principles over any others (quote from Charles Morris' review in New York Times). Neuhaus argued not so much from scripture as from the natural law tradition that values are real. While the Rorty position extolling irony is defensible in itself, Rorty apparently understood that one could not really raise children with his viewpoint. It would quickly undermine a society's morale. But aside from that problem, genuine relativism is not what we mean when we say something is right or wrong. We don't mean right or wrong from a certain point of view, but really right or wrong. Since we are all going to die and since the universe itself will end and since there is no God to redeem all this, there is a troubling question of why I should bother to do good when doing so does not suit me and does not benefit me. My answer to this is that a good deed enables me to participate in eternity. A single good deed is so true that its truth somehow will outlast the universe itself. It is obvious that I learned to see things this way from my religious upbringing. And it also obvious, at least to me, that it is good for a society that its members have this feeling. Religion instills it. It is called the pull of the absolute.

Title: Religious Revival?

Date: 2009-04-26T19:54:00.001-04:00

4/26/2009--Hanna Rosin reports in the NY Times Book Review section today on the religious revival taking place in the world, in her review of the book, *God is Back*, by John Micklethwait and Adrian Wooldridge. The book and the review are part of the large literature claiming that the secularization thesis has been discredited. Modernization does not bring increasing secularization, as had been thought. Europe is the exception. America is the new norm. Well, as readers of this blog know, these reports now appear to have been premature. The world is certainly very religious and more religious probably than 25 years ago. But secularization is rapidly growing in America, now constituting 15% of the public and even a higher percentage among the young. It turns out that science really does undermine at least a certain kind of religion, that dependent on miracle and the supernatural. People can be misled by the growth of religious wars and tensions into thinking that religion is stronger than it is. It should be remembered that the religious wars of the 17th Century presaged an enormous growth in secularism. The same thing may happen again, and relatively soon. It would not surprise me if the current, hate-filled interpretation of Islam that is being presented to the world by a small Muslim minority ends up discrediting Islam itself. If that happens, young Muslims might turn away from religion and create the kind of secular Islamic culture that is largely absent in the world today.

Title: The Growth of Secularism

Date: 2009-04-29T13:26:00.001-04:00

4/29/2009--First, it was ARIS with its 15% statistic on the nonreligious in America. Then it was Newsweek, with its End of Christian America. Now, the New York Times on Monday, 4/27 and ReligionDispatches on 4/28, continue the growth of secularism story: Laurie Goldstein, More Atheists Shout it From the Rooftops and Ronald Aronson, 40 Million Nonbelievers in America? Aronson is the author of Living Without God. The main point is that Americans must get used to thinking of secularists as a potential majority, not as a beleaguered minority. That will take some years, of course, but some readers will live to see it. What does secularism need in order to form a flourishing human civilization? If not religion, what will be the framework of meaningfulness? The answer to that question is not so obvious.

5/3/2009--The current Supreme Court majority on matters of Church and State consists of Chief Justice John Roberts (age 54), and Justices Antonin Scalia (73), Anthony Kennedy (72), Clarence Thomas (60), and Samuel Alito (59). This majority can even be joined by Justice Stephen Breyer, as it was in upholding a public Ten Commandments display in Texas in 2005. This majority is doctrinally incoherent but chronologically stable. It is going to uphold most instances of public religious symbols and it is going to uphold vouchers for private schools. It is not going to advance Establishment Clause doctrine, by which I mean that it is not going to tell us why religion and politics can be mixed, and it is not going to let government go overboard in endorsing religion. Prayer, for example, will not return to public schools. As you can tell by their ages, this majority is probably not going away any time soon. Justice Kennedy might retire before the end of President Obama's second term, or might pass away, but Justice Scalia would presumably like to be replaced by a more conservative President. In any event, there will not be any immediate change. It is in this light that one must evaluate President Obama's first choice of Supreme Court Justice. He can change the dynamics on the Court by choosing a more ideological Justice than was David Souter, but he cannot move the Court to the left—in this case meaning toward a more stringent separation of Church and State—by replacing Justice Souter with a younger but comparable version of himself. This suggests that the Court will stay away from religion cases for now, no matter whom President Obama selects.

Title: Judicial Pragmatism and Justice Souter's Replacement

Date: 2009-05-06T08:45:00.002-04:00

5/6/2009--There was a very revealing quote attributed to "former colleagues and students" at the University of Chicago in the New York Times article by Jodi Kantor last Sunday that discussed President Obama's possible choice for the Supreme Court. Kantor wrote, "Mr. Obama believes the court must never get too far ahead of or behind public sentiment... ." This sentiment is called "pragmatic" in the article and I guess it could be considered that. The context of the article was selecting the next nominee for the Supreme Court and President Obama might be signaling that his choice will not be very controversial. But there is also here a theory of constitutional interpretation at work and it is not one I thought Obama shared. It is the understanding that the people own the Constitution. Their understanding of what the Constitution means is ultimately the proper standard by which to judge decisions of the courts. This view, an organic view of the role of the courts, is not today accepted by either the left or the right. From the point of view of a Justice Scalia, the role of the courts is to interpret constitutional language in terms of its original language (that is what he claims; he does not always do this and rarely explains why not). From the point of view of the left, the role of the courts might be said to be the protection of fundamental rights more or less independent of history. We can see the different approaches at work in the realm of gay marriage. The conservative says that Equal Protection did not include gays when it was adopted (thus ignoring the question of why it now protects women). The liberal says that marriage is a fundamental right and gays should constitute a protected class. The organic constitutionalist asks whether America is ready for an immediate national solution to the issue of gay marriage, and answers, no.

Title: The Pope's Visit to Jordan

Date: 2009-05-09T07:05:00.002-04:00

5/9/2009--The media reported today on Pope Benedict's visit to Jordan. The headline in the Pittsburgh Post-Gazette read "Pope Expresses Respect for Islam on Mideast Trip." The subtext was that the Pope would be more careful about what he said concerning Islam after his 2006 remarks seeming to criticize Islam for its willingness to spread its faith by the sword led to outrage and even violence. I think the media have a hard time understanding Pope Benedict. My impression from reading two of his works before becoming Pope, *Truth and Tolerance* and *Many Religions-One Covenant*, is that Pope Benedict does not have to watch what he says. His respect for Islam, and for that matter all the World Religions, is quite sincere. On the other hand, he believes that the revelation of God reached its fulfillment in Jesus Christ. Naturally, therefore, he also sincerely criticizes the limitations of any way of life, Muslim or secular, that lacks a connection to Christ. He is not criticizing them for not recognizing Christ, but for the errors in understanding the nature of God (or ultimate reality) that flow from the failure to come to full relationship with Christ. I am certain that Benedict has never wavered from his refusal to judge the ultimate truth of any religion for salvation. He has called that "a question that can in fact be decided only by him who shall judge the world... ." (*Truth*, 18). Of course that does not reduce his commitment to truth in the Catholic understanding of Christ, but it does prohibit his viewing himself as arbiter of the World Religions.

Title: How Religion Dies and Secularism Takes Hold

Date: 2009-05-12T09:19:00.001-04:00

5/11/2009--The following news story was recently sent to me: JAKARTA, Indonesia — The secular party of Indonesia's president tripled its share of the vote in parliamentary elections as support for religious parties nose-dived in the world's largest Muslim-majority country. After years of unpopular laws pushed through by religious hard-liners, regulating women's dress and banning everything from smoking to yoga, even devout Muslims in Indonesia say they have had enough with religion in politics. What we learn from this story is how support for the separation of church and state arises, as well as how a people falls away from its religious roots. When religion tries to control political life, and when religion instigates conflict, eventually it is religion that falls into disrespect. This is what happened in Europe sometime after the Wars of Religion in the 16th and 17th Centuries. Religion itself was delegitimized. Something similar may be happening today in Indonesia. Perhaps if America and Israel had not been so hasty in refusing to recognize the democratic success of Hamas, something similar might today be happening among the Palestinians. People today see a resurgence in religion and they assume that this means that secularism is not growing. On the contrary, nothing promotes secularism like religious rule and religious conflict.

Title: Was Darwin a Darwinist?

Date: 2009-05-15T20:43:00.001-04:00

5/15/2009--Well, of course he was. But what kind of Darwinist? For a Daniel Dennett or a Richard Dawkins, evolution is based on chance. This suggests a blind, indifferent universe. Ultimately, then, existence might be thought to be without meaning. Or at least that is the sense they give me. I remember Dennett crowing in March in NYC, "What you are, your presumed self, is actually an alliance of machines in your brain." Darwin may not have been a Darwinist of that sort. Here is the last paragraph of Darwin's masterpiece, *Of the Origin of the Species*: "It is interesting to contemplate an entangled bank, clothed with many plants of many kinds, with birds singing on the bushes, with various insects flitting about, and with worms crawling through the damp earth, and to reflect that these elaborately constructed forms, so different from each other, and dependent on each other in so complex a manner, have all been produced by laws acting around us. These laws, taken in the largest sense, being Growth with Reproduction; inheritance which is almost implied by reproduction; Variability from the indirect and direct action of the external conditions of life, and from use and disuse; a Ratio of Increase so high as to lead to a Struggle for Life, and as a consequence to Natural Selection, entailing Divergence of Character and the Extinction of less-improved forms. Thus, from the war of nature, from famine and death, the most exalted object which we are capable of conceiving, namely, the production of the higher animals, directly follows. There is grandeur in this view of life, with its several powers, having been originally breathed into a few forms or into one; and that, whilst this planet has gone cycling on according to the fixed law of gravity, from so simple a beginning endless forms most beautiful and most wonderful have been, and are being, evolved." There is nothing in this description to demoralize one's hope that existence might be grand and beautiful. And for that matter that there might be a point of evolving "the higher animals." Such a general direction might reflect something more than chance. I don't mean the will of God, but perhaps a tendency built into matter toward consciousness. Anyway, the question of direction, purpose and meaning would have to be left open.

Title: Confusion Over America's Spiritual Heritage

Date: 2009-05-17T09:30:00.002-04:00

5/17/2009--The American Center for Law & Justice, which supports religion in American public life, sent out the following message last week: "It's clear that President Obama - through his actions and his words - is a strict church/state separationist. Thankfully, there's a strong move taking place on Capitol Hill to refute this troubling denial by President Obama and preserve America's Judeo-Christian heritage. Give generously to support the ACLJ's nationwide campaign to defend - and protect - America's Judeo-Christian heritage! Congressman Randy Forbes has put forward a phenomenal resolution called 'America's Spiritual Heritage Resolution' (H.R. 397). In essence, the resolution outlines the progression of faith and freedom in our country - from its very inception - and supports the designation of the first week in May as 'America's Spiritual Heritage Week.' Without a doubt, there's reliance upon the Lord in our country, and we must recognize and respect our rich religious heritage. As Rep. Forbes (VA) said, 'If in fact we WERE a Judeo-Christian nation, at what point in time did we CEASE being one?'" This message illustrates an important confusion about church and state among certain religious conservatives. First, yes, America has a spiritual heritage among its people and leaders. Christians built this nation. No reason not to celebrate that. But, no, America was never a Judeo-Christian nation. Because of the Establishment Clause, America was never officially Christian or Judeo-Christian. As to when we ceased to be a Judeo-Christian nation in the first sense that most people in America have been Jews or Christians, we are still that, but now the number is down to 78% Christians and Jews and likely to fall further. The problem with the Resolution is that it seeks to imply that Judaism and Christianity are true. The government cannot do that. What the Resolution could well celebrate is that certain founding principles of this nation, such as universal human rights, are built upon Judeo-Christian foundations. They are and we can celebrate that. We can celebrate that, however, without being Christians or Jews or suggesting that those religions are true.

Title: For the Establishment of Religion

Date: 2009-05-19T10:54:00.004-04:00

5/19/2009--While my manuscript For the Establishment of Religion is still being considered by publishers, I can introduce readers here to its essential argument: Government should be permitted to endorse a set of related ideas that constitute the common core of all the world's religions as well as the common core of the beliefs of most secularists. These ideas include the objectivity of values and the meaningfulness of history.

These ideas are by no means universally held. They are opposed by materialists, humanists, relativists and nihilists. Government should be allowed to disagree with these persons and to say so.

The above position is not actually controversial. The book goes on to argue, however, that in endorsing these ideas Government should be allowed to utilize traditional religious imagery and symbols. These religious objects and phrases are used not to endorse religion but to endorse these ideas.

This proposal is highly controversial. So I want to illustrate here how it works. Here is the opening of the Introduction by Professor Robert F. Cochran, Jr., to the just-published Pepperdine Law Review symposium issue, *Is There a Higher Law? Does it Matter?*

“When I was a law student at the University of Virginia in the mid-1970’s, my jurisprudence professor Calvin Woodward used the law school’s architecture to illustrate the twentieth century’s major jurisprudential shift. Above the columns at the entrance to Clark Hall, where I spent my first year of law school, carved in stone was the statement: ‘That those alone may be servants of the law who labor with learning, courage, and devotion to preserve liberty and promote justice.’

From the front, we walked into a massive entry hall, adorned on either side with murals. On one side was Moses presenting the Ten Commandments to the Israelites. On the other was what appeared to be a debate in a Greek public square. As we gazed up at the larger-than-life figures, they seemed to represent the higher aspirations of the law.”

The rest of Professor Cochran’s Introduction makes it clear that the essence of the jurisprudential change was skepticism or relativism concerning justice and related notions. Simply put, the authors of the entryway believed that justice was real. Many in the legal academy no longer do.

The reader can see that the University of Virginia endorsed the view that justice is real, and not just a temporary invention, and used two scenes—one religious one secular—to illustrate this commitment. The Ten Commandments scene was not meant to endorse the particular theology of the Old Testament, but to make a point about values that sidestepped revelation.

I claim in my book that government in general may do what the University of Virginia did here.

5/21/2009--Tom Krattenmaker, who has been doing a lot of interesting religion work in the USA Today "On Religion" column, wrote a piece earlier this week on the religious rights of High School Valedictorian Brittany McComb. A few years ago, her microphone was turned off when she began to speak about the virtues of her Christian faith in her graduation speech. Her case is working its way to the Supreme Court. Krattenmaker's point is that we should all be a little more tolerant of student references like these. The secularist should understand that "for many believers, experiencing momentous events like graduation without gratitude and witness to God is as distasteful as it is for an atheist to be subjected to hard-edged proselytizing." I disagree with Krattenmaker about this, but in an unusual way. In American Religious Democracy, I argued that the Supreme Court's interpretation of the separation of church and state is the reason we have this problem of religious student speech. It used to be that adult educators could simply tell students that too much religious speech is inappropriate for a mixed audience and, at the same time, that the religious need that Krattenmaker notes was satisfied in a general, nonsectarian prayer before and after the graduation. These general prayers were much less offensive to anybody than the "come to Jesus" student speech we get now. The United States Supreme Court struck down nonsectarian prayer at high school graduations in *Lee v. Weisman* in 1992. But the Court did not remove religion from graduations, since the religious instinct is still there. The Court only removed a more universal language along with adult supervision. The caselaw is a mess because in general the rights of student speech are in decline. But because of a judicial intuition that religion is different, student speech here is more protected. The proper approach is to recognize and allow a form of prayer at public occasions that is genuinely shared because it is capable of reinterpretation along secular lines. Beyond that, students could be given guidelines so that their graduation talks are appropriate for mixed secular and religious audiences. As usual, the law is the problem.

5/24/2009--When President Obama describes his criteria for a Supreme Court nominee, he is also describing his understanding of the role of a Justice and of the Court. This is how the New York Times today described President Obama's criteria. • President Obama, who has often cited intellect and empathy as qualities he wants in a Supreme Court nominee, said in a television interview broadcast Saturday that he was also looking for "somebody who has common sense and somebody who has a sense of how American society works and how the American people live." In the interview, the president, who taught constitutional law at the University of Chicago before coming to Washington, suggested that he prized real-world experience and a common touch as much as scholarly thought in seeking a successor to Justice David H. Souter, who is retiring. "What I want is not just ivory tower learning," Mr. Obama told Steve Scully, the C-Span political editor, who conducted the interview on Friday in the White House library. "I want somebody who has the intellectual firepower but also a little bit of a common touch and has a practical sense of how the world works." Now contrast this description with what a Justice Scalia would say should be criteria for a judge—technical legal skills such as an analysis of precedent and history. A feel for the country would not be Justice Scalia's main interest. How would a liberal theorist describe the needed qualities? Ronald Dworkin did this recently in the New Review of Books. He wrote of interpretation of the Constitution as a moral theory. President Obama's approach, in contrast, seems to envision the Court as a part of a democratic government, with some responsibility for democratic legitimacy. Plenty of people would see that as a threat to minority rights, if they took President Obama seriously. Perhaps they do not. But I am beginning to think that he means it.

Title: Judge Sonia Sotomayor and Judicial Activism

Date: 2009-05-27T05:09:00.001-04:00

5/27/2009--It is tiresome to hear conservatives instantly trot out the script of judicial activism in attacking the nomination of Sonia Sotomayor for the Supreme Court. The issue of the balance between judicial decision and decision by elected officials is obviously important, but it cannot be decided by slogans. When conservatives say judicial activism, they are referring almost exclusively to abortion rights and the possibility that the United States Supreme Court might recognize gay marriage as a fundamental right. But consider instead the right to bear arms. When in 2008 the Court recognized a personal right to bear arms that the federal courts had rejected for over 200 years, conservatives did not call this judicial activism. They called it a belated recognition of constitutional rights. The same can be said for the constitutional rights of corporations and free speech protection for advertising, both of which would have seemed lunacy to the framers of the Constitution. I could also add constitutional protections against regulation of property under the Takings Clause. All of these are rights of capitalism against democracy. All are supported by conservatives. All are policy crafted by judges. Then there are the powers of Congress. The Fourteenth Amendment gives Congress the power to enforce individual's constitutional rights. But when Congress does so, the Court second guesses these decisions, usually in the name of state rights. Conservatives support this also. All of this is policy made by federal judges. Maybe it is all inescapable. But it is all activism.

Title: Who is Responsible for the Murder of Dr. George Tiller?

Date: 2009-06-02T05:25:00.001-04:00

6/2/2009--Are the pro-life activists who called Dr. Tiller a mass-murderer responsible for his death? This is an old question. It was the same question raised in the 1960's when some anti-war activists turned to violence to oppose U.S. policies in Vietnam. Was the anti-war movement and its rhetoric to blame for the violence and death? As a member of the anti-war movement at the time, I remember thinking that US policy was responsible for the protests and violence, not the anti-war movement. Now, as someone who is pro-life, I cannot say that Roe v. Wade is responsible for this violence and the other acts of violence against doctors and medical personnel. For without that judicial decision, America would still have permissive abortion laws. They would simply have been passed democratically. Yet, I don't see how a person who believes that life begins at conception can avoid calling a doctor performing abortions a murderer, or something similar. So, no, I don't think pro-life rhetoric is responsible for this criminal act. On the other hand, there is a fringe element in the pro-life movement that winks at code words for violence. There is a grievous fault there that I keep waiting for other pro-life persons to denounce. What about the nonviolent civil disobedience that the pro-life movement practices constantly? Does this set a precedent for law violation that includes acts of murder? That I totally reject. It would be like blaming sit-ins in the civil rights movement for the riots that later rent American cities. Nonviolent civil disobedience is an honorable and public act of conscience. It is the opposite from gunning down a doctor.

Title: Barack Obama: Theologian-in-Chief

Date: 2009-06-05T05:24:00.001-04:00

6/5/2009--What a great speech in Cairo. Subtle. Elegant. Hopeful. But did you notice how religious it was? God wants the children of Abraham to live in peace together in his holy city Jerusalem. You would expect that from the Pope. If George Bush had delivered that speech, secularists would be all over him. Why will they give President Obama a pass? Several reasons. First, we are partisans and he is our guy. Second, the Muslim world is religion saturated. A speech to that world to be effective must be religious in tone. Third, we don't believe Obama really is religious. He appreciates religion, calls himself a Christian and his appreciation of Islam was on display. But he isn't run by some primitive version of the Bible, as we thought Bush was. (Probably wrongly). Now you see the importance of hallowed secularism, for that is what we think Obama actually is. At the very least, to talk to the world, secularism must retain a taste for the infinite.

Title: Netroots Nation National Convention in Pittsburgh in August

Date: 2009-06-08T07:48:00.000-04:00

6/8/2009--Netroots Nation has recently announced that one of the panels at this year's convention will concern the relationship of Church and state: A New Progressive Vision for Church and State: How I Learned to Accept "Under God" in the Pledge of Allegiance and Stop Losing Elections. Here is the description of the session: The progressive vision of a total separation of religion from politics has been discredited. President Obama welcomed both believers and nonbelievers into his campaign and inauguration. Despite growing secularization, a secular progressive majority is still impossible. A new approach is needed and would have two parts. It would admit that there is no political wall of separation. Thus, voters must be allowed, without criticism, to propose policies based on religious belief. The other side, however, is that when government speaks and acts, messages must be universal. The burden is on religious believers, therefore, to explain public references such as "under God" or Ten Commandments monuments in universal terms. For example, the word God can refer to the ceaseless creativity of the universe and the objective validity of human rights. Promoting and accepting religious images as universal would help heal culture-war divisions and promote the formation of a broad-based progressive coalition. I will be leading the session with mostly critical voices from the progressive movement to critique. Details on date and time will follow, but the convention is August 13-15.

Title: The Sixth Wind

Date: 2009-06-11T15:23:00.001-04:00

6/11/2009--The cover story of World's Magazine's current issue raises the question of the decline of Christianity in the United States—"Is Christianity in the U.S. doomed?" One aspect of that story is an essay by the publisher Marvin Olasky entitled "The Sixth Wind?" Olasky makes several points about reports such as the American Religious Identification Survey to which I have often referred. First, almost all of the decrease in Christian identification and increase in nonreligious identification took place between 1990-2001. There has been little change since then. Second, nonreligiously identified people often report that they believe in God and that religion is important to them. Third, nonreligion turns out to be unstable. The children of the nonreligious turn to religion at a greater rate than the children of the religious turn away. But Olasky is more interested in kinds of religious belief—he calls it quality—rather than in numbers per se. What may be happening is that nominal Christians, or nominal religious believers generally, are now more honest with pollsters than they had been in the past. There is perhaps a polarization: people who don't care about religion now are willing to say so, whereas serious religious belief is on the increase. All of this is intriguing and we should all ponder Olasky's views. On the other hand, Olasky had lunch with the authors of God is Back, John Micklethwait and Adrian Wooldridge and he gets part of his message from them. In doing this, Olasky is playing a dangerous game and he knows it. Micklethwait and Wooldridge are employed by The Economist magazine and it shows. God is Back is pure individualist capitalism, with God playing the part of the item to be consumed and the believer the part of the customer. There is no real religion there. Olasky would be better off with atheism. At least atheism does not defile the name of God.

Title: Pens Win

Date: 2009-06-13T14:46:00.001-04:00

6/13/2009--Does this mean there is a God, after all?

Title: More on the Church and State Panel at the Netroots Convention in Pittsburgh in August

Date: 2009-06-16T12:58:00.002-04:00

6/16/2009--The moderator for the panel will be Chuck Freeman of Soul Talk Radio. The panelists are: Frederick Clarkson, well-known journalist, left wing religious thinker and author of *Dispatches from the Religious Left: The Future of Faith and Politics in America*, Ig Publishing, October 2008, Kyoki Roberts of the Zen Center of Pittsburgh and Vic Walczak, Legal Director of the Pennsylvania ACLU. It is pretty much a certainty that none of them will agree with the proposal for the future of church and state that I am making. But, everyone must answer the following question: are the words "under God" in the Pledge of Allegiance constitutional? The Ninth Circuit Court of Appeals said "no" in 2003. The Supreme Court reversed without reaching the merits of the issue. What is the progressive vision here? Thom Hartmann once said to me on his radio show, well the Pledge is just symbolic. That suggests that we progressives think the Pledge is unconstitutional but it's not important enough to take the political heat of doing anything about it. That is what progressives said about gun control and look where we are now. At some point we have to come clean and fight for our vision of the future. My future vision of church and state sees a secularism comfortable with religious imagery. So, to me, the Pledge is ok.

Title: "Netroots Nation Dives into Inanity."

Date: 2009-06-21T12:17:00.000-04:00

6/21/2009--The above quote is from science blogger PZ Myers describing the panel I will be participating in at the August convention in Pittsburgh: A New Progressive Vision for Church and State: How I Learned to Accept "Under God" in the Pledge of Allegiance and Stop Losing Elections. When Fred Clarkson, the well-known journalist and author announced that he was participating, the proposal for the subject got attention. Fred, who was candid with me in indicating he was participating primarily to voice objections (other participants are as well), has posted some of the controversy on the Daily Kos:

<http://www.dailykos.com/storyonly/2009/6/19/744453/-PrePie-fighting-Netroots-NationNone>

of this comes as any surprise to me. I just hope people will remember two things. First, the words "under God" are in the Pledge of Allegiance. I did not put them there. No court will take them out. No national politician will support taking the words out. If you think gun control is a losing issue, or legalization of marijuana, or gay marriage, try drumming up support for taking on God. I am proposing a reinterpretation of religious language in which "God" stands as a symbol for a quite naturalistic understanding of reality and the Ten Commandments stands as the promise of universal human rights. The issue for me is relativism and nihilism, which I oppose, but which many secularists also oppose. To put this another way, why isn't the Declaration of Independence unconstitutional? Answer, because grounding human rights in a Creator is a political assertion about rights, not a theological assertion about a Creator-God. Second, for all the controversy, secularists have to be able to live actual lives. This means thinking about the very same things that religious believers think about. I tried to capture that in my book, *Hallowed Secularism*. Reverence is a human term, not a religious one.

Title: Does the Iranian Struggle Demonstrate that Religion and Democracy are Incompatible?

Date: 2009-06-23T19:42:00.001-04:00

6/23/2009--Reuel Marc Gerecht wrote a New York Times op-ed on Sunday that we are witnessing "two incompatible ideas" in irrevocable conflict: the idea that God's would rule or that the people would rule. This, he writes, is the tension between theocracy and democracy. But, as Gerecht acknowledges, these are only incompatible because of the structure in Iran of who decides what the will of God is. What makes Iran a theocracy is not that the will of God controls. What makes Iran a theocracy is that a group of clerics decides what the will of God is. Imagine instead a country composed entirely of pious Muslims. Every person in this society agrees that the country must be run in accordance with the will of Allah. But they also believe that Allah speaks to every person and that two heads are better than one. So they conclude that whenever there is a dispute about what is to be done, about anything, the most reliable way to determine the will of Allah will be to vote. Is such a country a theocracy? No. It is a democracy. Democracy means, with some rough edges, that we vote about what should be done. Therefore, if some religious Americans vote against abortion or gay marriage because God tells them to, this is democracy, not theocracy. Iran is experiencing the tension between dictatorship and democracy, not between religion and democracy.

Title: No Political Wall of Separation

Date: 2009-06-26T15:33:00.001-04:00

6/26/2009--With one exception, the controversy over the netroots nation panel for a new progressive vision of church and state comes as no surprise. After all, I am proposing a mixing of religious symbols and language in public life and that is precisely the kind of thing some secularists have been fighting for years. People who oppose my proposals do not even know that I am a secularist. Nor, by and large, have they read other secularists who are looking anew at religion for inspiration and social resources. But the one suggestion I make that I did not anticipate would be controversial is that there is no such thing as a political separation of church and state. I mean by this that the motivation of a voter to support or oppose public policy is really irrelevant to the merits of that voter's position. So, if a voter supports a carbon tax because God wants human beings to protect His Creation, that religious motive is not subject to criticism in and of itself. Obviously, the rest of us are unimpressed with this religious reason and we would not support a carbon tax because someone says this is God's will. To convince the rest of us, the religious believer will have to speak our language. Nevertheless, the believer does not need our permission to vote in accordance with God's will. If you think about it, motivation has to be usually irrelevant in a political debate. A lot of people simply vote their own material self-interest. So, rich people often support lower taxes. Poor people often support more government services. But no one suggests that such a motivation is subject to some special limit. Maybe people should vote the common interest, but they often do not. Of course some public policy positions are currently unconstitutional. If a Catholic wants to remove the right of choosing abortion, for example, that policy would be found unconstitutional. But the reason for that is not the religious motivation, but the substance of the policy being proposed. The same could be true of opposition to gay marriage if the federal courts were to find such a right. To my surprise, I am hearing from some critics that it is a violation of the separation of church and state for voters to vote their religious convictions. This just cannot be true. For one thing, we often don't even know why we support and oppose certain policies.

Title: "Is Democracy Possible Here?"

Date: 2009-06-28T09:31:00.003-04:00

6/28/2009--This is how Paul Starr, reviewing Ronald Dworkin's book, *Is Democracy Possible Here?* in the *New York Review of Books* (7/16/2009), describes Dworkin's thought about religion in public life:

"In discussing the role of religion in public life, he avoids any suggestion that conservatives are intolerant and instead identifies the central divide as a choice between conceiving of America as a "tolerant religious society" or as a "tolerant secular society." The first model views the nation as "collectively committed to the values of faith and worship, but with tolerance for religious minorities, including nonbelievers," while the second sees the nation as "committed to thoroughly secular government but with tolerance and accommodation for people of religious faith." From the first standpoint, though government cannot favor any particular religion, it can endorse religious belief in general by providing for ecumenical prayer in public schools, incorporating references to God in public ceremonies, oaths, and justifications of public decisions, and punishing practices such as homosexuality that the religious majority sees as violating God's will.

By contrast, the second standpoint insists, as Dworkin conceives it, on the principle of personal responsibility, which requires the state to afford individuals the ethical freedom to define value in their own lives. That requirement prevents the state from using its power to favor faith over nonbelief or to punish practices of a minority on the basis of religious convictions. He argues unequivocally that those who celebrate the traditions of marriage and family life should not deny the accumulated experience and benefits of those traditions to homosexuals who want to marry."

There are two points to note here for our purposes. First, Dworkin is wrong, I hope, if he believes we must choose between the tolerant religious, or the tolerant secular society. We need a model that allows more common ground than that—tolerance is not such a ground. Second, Dworkin puts his rabbit in the hat if he suggests that the majority may not "punish" on the basis of religious belief. The majority in America has already agreed that gay sex may not be criminalized.

The question is whether policy can be made on the basis of religious belief. Certainly it seems that one should not do that—prohibit practices based on religious belief—when the question is whether to permit gay marriage. The matter would look very different, however, if the religious position were integration a la MLK, Jr., or universal healthcare or fairness to illegal immigrants. Now, suddenly, the objection that the majority is legislating religion rings hollow, in fact becomes unworkable. We cannot even say when our motives and purposes are religious or not.

Title: Rabbi Jill Jacobs on Public Judaism

Date: 2009-06-30T21:30:00.001-04:00

6/30/2009--Jill Jacobs has written an op-ed for Jewish Telegraphic Agency
(<http://jta.org/news/article/2009/06/30/1006223/op-ed-embracing-public-judaism>)
calling on Jews to enter more fully into public issues on expressly Jewish grounds: "religious traditions -- Judaism, Christianity, Islam and others -- have much to say not only about social and cultural norms, but also about economic policy, equality and inequality, and interpersonal behavior. ...In addition to pushing us to change laws in order to create a sustainable and just economic system, Judaism teaches specific laws aimed at guaranteeing that employers will not take unfair advantage of low-income workers, that landlords will not evict tenants without fair warning, and that the criminal justice system will preserve the dignity of both victims and perpetrators." Naturally, Rabbi Jacobs could not propose such an agenda without considering the separation of church and state. She acknowledges Jewish "attempts to protect ourselves from the intrusion of Christian practice into public institutions, have persuaded us that Judaism has no place in the public sphere." But then she adds, "A powerful rejoinder to this view was offered up by the theologian Rabbi Abraham Joshua Heschel. 'We affirm the principle of separation of church and state,' the rabbi wrote. 'We reject the separation of religion and the human situation.'" This sounds like trying to have it both ways. Religion is to be a strong influence but Christian symbols are nowhere to be seen. Nevertheless it is a step forward to a liberal Jew to acknowledge that religion must be on the street and not just in the home. This is more evidence that there cannot be a political wall of separation.

7/2/2009—Last Sunday, June 28, in the New York Times book review section, Paul Bloom reviewed “The Evolution of God” by Robert Wright. Wright’s thesis is that the concept of God has evolved and changed over the millennia. Wright had previously told the story of a moral direction in human history, in “Nonzero” (2000). Now he tells that story in terms of the moral evolution of the concept of God, ever expanding in the circle of empathy. This does not mean that God actually exists and Wright is careful to distinguish the concept of God from God. Wright does consider the question of God’s existence as well, however: “Wright tentatively explores another claim, that the history of religion actually affirms ‘the existence of something you can meaningfully call divinity.’” Wright comes to a provocative possibility: “he wonders why the universe is so constituted that moral progress takes place. ‘If history naturally pushes people toward moral improvement, toward moral truth, and their God, as they conceive their God, grows accordingly, becoming morally richer, then maybe this growth is evidence of some higher purpose, and maybe — conceivably — the source of that purpose is worthy of the name divinity.’” This God is not a being. Divinity would be the moral arc of the universe itself, bending toward justice, in the words of MLK, Jr. Bloom says this is a minimalist God, not one that “anyone is looking for”. But this is not true. The idea that there is such a thing as moral progress, or moral backsliding, says that not every value is a personal opinion. That resolves the fundamental question of higher or natural law. Now we can say that genocide or slavery, or blowing up schools for girls is actually wrong and there is more to morality than self-interest. Now we secularists can stand as much for ultimate truth as any religious believer. What’s minimalist about all that? Bloom, apparently, has never really encountered the post-modern spirit.

Title: How Will the Children of Secularists Return to Religion?

Date: 2009-07-04T19:53:00.002-04:00

7/4/2009—Happy Fourth of July, a day of rejoicing unless you are a native American. This is a day to consider the words of the Declaration of Independence: “they are endowed by their Creator with certain unalienable Rights”. Secularists must come to terms with these words. They cannot be unconstitutional. But I also want to address a story that appeared in the New York Times back on June 14, entitled, “A Child Turns to the Fold”. The story tells of Ryan Sweeney, age 13, who suddenly started going to church, much to the surprise of his parents, and took his father with him, and later his mother too. Ryan’s father had been pretty religious once. His mother really not at all. Ryan had been raised without religion. The story is a familiar one of children shaming their parents by being more serious about life than they are. It could have been about raising money for charity, but it was about going to church. But what is this all about really? Ryan finds the sermons “pretty interesting”. But listen to the rest of his reasons for going: “Among the many reasons Ryan wanted to go: he’s a big reader, enjoys fantasy literature and has seen theories suggesting the world may end in 2013... . In that case, he said, it would be nice to be on good terms with God.” Look, I’m not knocking a 13 year old. His thoughts are silly, naturally. But when is someone going to have a serious talk with him? And who is there who can have a serious talk with him? I wanted my kids to engage ideas about God and religion while they were young. And I believe they did. I was always afraid, not that they would have no religion, but that they would have bad religion. Apparently that is what can happen when you raise a child, like Ryan, with no religion at all.

Title: What is the Difference Really Between Believers and Nonbelievers?

Date: 2009-07-08T05:24:00.001-04:00

7/8/2009--Much of our present political and legal disputes are premised on a divide between religion on the one hand and secularism on the other. But how well founded is this assumed division? That is obviously an important question in the context of Hallowed Secularism, which, both in its book and blog forms, has a religious tone. That is why some secularists distrust it. But religious believers are subject to the same pressures and assumptions that nonbelievers are. Listen, for example, to Chris Hedges, in Fred Clarkson's book, *Dispatches from the Religious Left*: "God is a human concept. God is the name we give to our belief that life has meaning, one that transcends the world's chaos, randomness and cruelty. ... The question is not whether God exists. The question is whether we concern ourselves with, or are utterly indifferent to, the sanctity and ultimate transcendence of human existence. God is that mysterious force—and you can give it many names as other religions do—which works upon us and through us to seek and achieve truth, beauty and goodness." Certainly there are issues here. For example, what does human life "transcend"? Or is transcendence built in, somehow? But if the secularist responds by saying, I can do all that without religion, she may be making a category mistake. Maybe doing all that is religion.

Title: How is the Constitution Interpreted?

Date: 2009-07-09T11:40:00.001-04:00

7/9/2009--The Netroots Nation convention is having a session on a progressive vision of church and state. Information about the session is elsewhere on this blog. But the first question a proposal for a new interpretation of any provision of the Constitution must answer is, how should the Constitution be interpreted? Conservatives say that the way to interpret is through history and text. Anything else is "making up" the law rather than interpreting it. Conservatives do not always, or even usually, practice what they preach, (see giving constitutional rights to corporations or protecting advertising under free speech) but that is what they say. Liberals usually oppose that kind of interpretive approach. If one followed it, women and gays would not be protected from discrimination. But in the area of establishment of religion, liberals change course and pretend that the meaning of the Constitution is fixed at the secular state. So, at times, everybody pretends that the Constitution is not a matter of political struggle but has an eternal meaning. But that is not how our system has ever worked. Yet when that is pointed out, we act surprised. Thus, listen to the description of a recent book about the Supreme Court's decision making: "Lucas A. Powe Jr. The Supreme Court and the American Elite, 1789-2008 In this engaging--and disturbing--book, a leading historian of the Court reveals the close fit between its decisions and the nation's politics. ... Lucas Powe shows how virtually every major Supreme Court ruling, however deftly framed in constitutionally terms, suited the wishes of the most powerful politicians of the time." The above is how Powe's publisher describes the book. But how could this information come as a surprise? Constitutional law is another form of politics. What else is new?

Title: How Secularists Die

Date: 2009-07-11T07:34:00.001-04:00

7/11/2009—There was a story in the most recent edition of World magazine about a woman dying from cancer. A staunch Christian, she reportedly said that the cancer was how God was bringing her to heaven. I have always found this denial of death to be the least healthy aspect of Christian thought. And I am not alone in this. When his wife died, C.S. Lewis denigrated the idea that he and his wife would be reunited later in heaven. In fact, Jesus criticized this way of thinking when his opponents, the Sadducees, tried to trap him, asking whose wife the woman with seven husbands would be. Jesus said that at the time of the resurrection, people would not marry but would be like angels in heaven (Mt. 22, 23-33). This suggests first that there may not be any heaven at all, but only resurrection. Second, it suggests that you will not have the kind of existence that you have now. On the other hand, when I am finally told I am going to die soon, I may leap to any comfort I can get. So, who am I to criticize? But the story raises the question, what story or myth will hallowed secularists tell themselves to help come to terms with death? It seems to me that for the secularist, the understanding must center around the great circle of life. Yes, my life is at an end. But that must be so, or my grandchild could not be born. I have my time and all others have theirs. The philosopher Martin Heidegger, in analyzing the Anaximander fragment, suggested that the unwillingness to get off the stage of existence is the root of evil. If this is so, capitalism and Christianity, and Islam, for that matter, have contributed to evil by their cult of individualism. Maybe Hallowed Secularism will do better.

Title: Whatever Works—and Loves

Date: 2009-07-13T22:24:00.002-04:00

7/13/2009—I just got back from seeing Woody Allen's latest film, *Whatever Works*. The basic structure is like *Annie Hall*, complete with a very similar soliloquy at the end. Actually, Allen must have mellowed, because whereas in *Annie Hall* people cling irrationally to relationships to help them get through life (We need the eggs), in *Whatever Works*, the secret is any "temporary grace" we can get or give. At the beginning of *Whatever Works*, the main character tells us that life is meaningless. So, he tries to kill himself. By the end, he still says that life is meaningless, but now he says that because life is meaningless, we should try to love each other. This is pretty cheap grace, in two senses. First, loving each other genuinely is very difficult, as Allen's characters show. Since all traditional morality is rejected in the movie and nothing is substituted that requires the least sacrifice of pleasure and whim, temporary grace turns out to be simple self-indulgence. In my experience, actual love is hard. The second sense of cheapness is the structure of the insight itself. The Canadian Jesuit philosopher Bernard Lonergan describes in his book *Insight* types of arguments that refute themselves. *Whatever Works* is one of those arguments. If life is meaningless, we have no reason to be kind to each other. If we should be kind to each other instead, then, of course, it is meaningful to be kind to each other. Thus, life cannot be said to be meaningless. But if Woody Allen had simply said that the secret of life is love, he would have had to turn in his Jewish existentialist card.

Title: The Politics of the Future

Date: 2009-07-15T10:30:00.002-04:00

7/15/2009—I had a glimpse of the politics of the future today, from a reading in Pierre Teilhard de Chardin, *Science and Christ*, Chapter 9, *The Salvation of Mankind*, written in 1936: We do not want fascist fronts, or a popular front—but a human front. We need a program, the ideal of which we dream. There are two classes of men: those who stake their souls on a future greater than themselves, and those who through inertia, selfishness, or because they have lost heart, have no wish to press on. Those who believe in what is to come and those who do not. ...two camps representing the two attitudes of belief or non-belief in the spiritual future of the universe... . exalted concrete goals...a much more important investigation for the future would be the study of the currents and magnetic forces who nature is psychic: in fact, an energetics of spirit. Driven by the necessity to build up the unity of the world, we may, perhaps, come in the end to see that the great work dimly guessed at and pursued by science is simply the discovery of God. (my paraphrasing). Now, for some, this sounds too religious. But Teilhard never left the Earth. He was writing here of consciousness. The discovery of God has to do not with supernatural beings but with the manifestations of spiritual growth in the universe. If you want an example of what Teilhard means by the human front, look at Pope Benedict's recent Encyclical: *Truth in Love*. How come this is the most left-wing document most of us have ever seen? Why is only the Pope daring to speak of large-scale redistribution of income, supra-national governance of market institutions and the rights of workers? I don't see anything like this out of the New Atheism. There is something important here to remind ourselves of: we cannot afford a wall of separation in thinking between religion and secularism. We must ask across all boundaries, what is really possible for humankind?

Title: More on netroots panel on church and state

Date: 2009-07-17T12:14:00.002-04:00

7/17/2009--check out a description of the panel for August

14 at

<http://www.dailykos.com/storyonly/2009/7/15/753500/-Netroots-Nation-Panel-on-Separation-of-ChurchState>

Title: Getting Jesus Out of the Legislature

Date: 2009-07-19T08:04:00.002-04:00

7/19/2009—Tom Barnes of the Pittsburgh Post-Gazette reported in today's paper on a three week controversy in the Pennsylvania legislature over a Christian minister who was prevented from using Jesus name in a legislative prayer opening a session. Some thoughts follow. First, what is the current law on legislative prayer? There are basically two judicial approaches. As one example, President Obama's first judicial nominee, Judge David Hamilton, who was chosen to fill a vacant seat on the U.S. Court of Appeals for the 7th Circuit, based in Chicago, struck down the legislative practice in the Indiana legislature as a federal district judge because the prayers were not nonsectarian. His order, as I remember, was that no nonsectarian prayer be permitted. The other approach, again without refreshing my research, is to look at the legislative prayer practice as a whole, and allow all kinds of prayers as long as the overall thrust is nonsectarian. In the first approach, the decision to bar the Jesus prayer is required by the Establishment Clause; in the second, not necessarily. Second, what about the charge of censorship? Here, the law is incoherent. The Supreme Court has sometimes written as if speech by students in public schools at school events is private speech. On the other hand, legislative prayer, like high school graduation prayers, is apparently regarded as government speech and hence there would be no private first amendment right in a minister to deliver his or her own prayer without government interference. Legislative prayer seems to be the government speaking. My approach to all this, the higher law approach, which I will be introducing at the netroots nation convention in Pittsburgh in a few weeks, would be to regard all legislative prayers as invocations of higher law principles. The legislature would have to open these prayers up to nonreligious messages too. But the question would be the overall thrust, not each individual prayer. Not all prayers could be religious in nature, but some could be sectarian. Nonsectarianism is just a half-way house as we try to figure out what the Establishment Clause means. Ultimately, the category of nonsectarianism is empty. No "prayer" or meditation fails to endorse one particular world-view, even if that world-view is the theory of higher law, or objective value, against relativism. It makes much more sense to ask whether legislative prayers are open as a whole to religious and nonreligious messages. No one prayer can be judged that way.

Title: The Rejection of God Leading to Relativism

Date: 2009-07-21T08:54:00.000-04:00

7/21/2009—Sometimes I wonder if I am not overwrought and mistaken in thinking that secularism in the West, and in the United States in particular, is unthinkingly headed for a culturally unsustainable descent into relativism and nihilism because of its break with traditional religion and a concept of God. Some secularists have been assuring me that no connection exists between secularism and the rejection of the theory of objective value. Daniel Dennett tells me that we don't need religion to be good and Sam Harris says that he believes in absolute right and wrong. I am certain they are right, but I don't share their assumption that rejection of relativism is easy in a secular worldview.

Then I run into the real, unadulterated thing: rejection of God leading directly to relativism. Here is my most recent example: a letter to the editor in the New York Times book review. I reprint it here in its entirety.

To the Editor:

The tone of Paul Bloom's review of Robert Wright's "Evolution of God" (June 28) suggests that perhaps both he and Bloom, in assuming that God does not exist, take an untenable step in assuming that a "God's-eye view" of an "expansion of the moral imagination" does exist, and that in conducting their historical survey, which transcends specific civilizations, they know what it is.

Certainly, they know what such an expansion of moral imagination is from a Western Enlightenment perspective, and as a fellow inheritor of that perspective, I share their view. But only from our own perspective. Every thinking member of every high civilization — Egyptian, Greek, Hindu, medieval Christian, etc. — probably has or had the tendency to assume that he or she is on the right track philosophically and morally, that all predecessors were mistaken or at best insufficiently enlightened about morality, and further, that all future moralists are likely to be decadent. In other words, they (we) find it too easy to assume that we have finally arrived.

A "God's-eye view" both exists and is at last understood. By us. But once we have kicked the metaphorical God-ladder out from under ourselves, we no longer have a basis for any universal moral absolutes. An absolute "God's-eye view" of morality no longer makes sense. What I call an advance in moral tone is likely to be seen as sentimentally softhearted, or insufficiently stoic or what-have-you, by a sophisticated member of another civilization, past or future. And I have no way to demonstrate that I am transcendently right, and he is wrong.

THOMAS CUDDIHY

[I don't know Cuddihy, by the way. If he is out there, please write in.]

Now, several points. First, Cuddihy's relativism is internally inconsistent. He claims that it is true absolutely that nothing is true absolutely. This is not a serious objection, I know.

Second, the fact that society might collapse if we agreed with Cuddihy and acted on that belief does not mean he is wrong. But I think we would collapse and that is at least worth thinking about. Even Rorty, if I remember correctly, did not want children exposed to his thinking.

Third, Cuddihy is mistaken in a much more serious way. He assumes that he is making an ontological claim—no moral claims are absolute if God does not exist. But actually all he is making is an epistemological one—there is no way to demonstrate that I am right and you are wrong. The ontological claim is complex. Charles Taylor agrees that there are no absolutes without God. I don't believe that it so. The universe is still a certain kind of thing. The good may be to be in accord with the kind of beings we are and the kind of thing the universe is (with apologies to C.S. Lewis).

Fourth, the epistemological claim is not significant and is unaffected by the existence or not of God. The South believed in God and so did the North. They disagreed not over whether truth and good were real, but over the substantive claim that slavery was in fact wrong. Now, I believe history has revealed the absolute truth of the claim that slavery is morally wrong. I don't care if some civilization believes otherwise. Nor do I think this is just my opinion. If it were just my opinion, someone would today be proposing that humankind return to chattel slavery. Mr. Cuddihy is wrong, thank God (if you will excuse the expression). No one is going back to slavery in the absence of catastrophic breakdown in human civilization. And even if that occurs, it is likely that the tyrants who do it will know perfectly well that what they are doing is morally wrong. Fortunately. There are moral absolutes even though we mistake them and don't follow them.

Title: What Do We Need?

Date: 2009-07-23T11:09:00.001-04:00

7/23/2009—What do we need to build a healthy civilization? By healthy here I mean one in which human life flourishes and one that is environmentally sustainable. Bernd Heinrich, the insect physiologist, answers that question in his book, *Summer World*. He writes, “We need two things: clear vision and also a spiritual imperative so that we will focus on the ultimate ecology, not the proximate economy.” (New York Times Book Review, 5/31/2009, review by Elizabeth Royte) Clear vision is what our virtual summer world lacks. We falsely imagine that we can have bananas from Central America and coffee from Africa in the amounts we consume, forever. This is simply not sustainable. The spiritual imperative should come as an unwelcome reminder that religion does matter. Heinrich undoubtedly does not mean one of the organized religions when he writes “spiritual”. But he does mean the sense of the holy that is beyond the demands of self-interest. Now, the destruction of the rain forest becomes a sin against nature rather than just a cost. For a secularist to have such a sense, you need Hallowed Secularism.

Title: Common Ground on Everything But Abortion

Date: 2009-07-25T17:51:00.001-04:00

7/25/2009—my old friend Rosa DeLauro, D-Conn, is doing a real service to the nation for her work on the “common ground on abortion” legislation, along with Tim Ryan, D-Ohio. The bill combines proposals to prevent pregnancies with support for women who want to carry their pregnancies to term. The bill is allowing people who have not even spoken to each other for years, to work together. All this is very much to the good. The tendency to demonize political opponents is one of the reasons that our politics is broken. This bill is a start in the other direction. The U.S. Conference of Catholic Bishops opposes the bill not because of abortion but because the bill promotes contraception. That position probably lacks much support even in the rest of the pro-life community. That said, the terminology around this effort is misleading. The bill is not about abortion. The bill is an attempt to find common ground on everything but abortion. About abortion itself, supporters of the bill just have to agree to disagree. The fundamental question is still, when does human life begin? In the last few weeks, I have seen two pretty amazing sonograms. That technology is rapidly improving and those pictures were certainly pictures of a baby.

Title: Food Inc.

Date: 2009-07-27T20:13:00.001-04:00

7/27/2009—I saw a film on Sunday that I recommend for everyone, Food, Inc. The film is a thoughtful expose of the food industry. It is really more journalism than propaganda. Predictably the main villains are Monsanto and its patented, genetically modified soybean (now about the only soybean grown in America) and the meat packing industry, with its cows standing in their own feces and thus risking your health. Yet, the hero of the film is in large part WalMart, whose higher food safety standards are beginning to force a retreat from the use of human growth hormone in the food supply and whose organic purchases are making that sector profitable. Propping up corporate greed is the stupidity of a public farm policy that subsidizes corn production so that corn is sold for less than the price of production, thus wasting taxpayer money, spurring the over use of corn in feed for cows to the detriment of our health and adding calories everywhere in the food chain. At the end of the film are suggestions. Eat seasonal, organic and local. But the larger message is, buy from industries and companies that respect animals, workers and the planet. One thing Hallowed Secularism has to think about is the overall economic organization. Between Food, Inc. and the recent book, Cheap, by Ellen Ruppel Shell, we see the necessity of sustainable economic patterns. I am enough of a capitalist to think the market will address these issues, but only if prices reflect true costs. That will require intervention, for example a carbon tax.

Title: Jesus is Back in the Legislature, Thank God

Date: 2009-07-30T18:19:00.002-04:00

7/30/2009—Tom Barnes reports today in the Pittsburgh Post-Gazette that Rev. Gerry Stolzfoos on Wednesday finally got to say a prayer opening a legislative session that ended with a reference to Jesus. As readers of this blog are aware, Rev. Stolzfoos chose not to give such a prayer last month when he was informed by the leadership of the State House of Representatives (Democrats wouldn't you know) that there was a policy against naming any specific religious figure in an opening prayer. Yesterday, Rev. Stolzfoos got another chance, this time in the State Senate chamber, which does not have any such policy. There are two issues here. First is the State House policy censorship in violation of either free speech or free exercise of religion? The answer is simply no. Legislative prayers are not private speech. They are government sponsored speech. That is why neither you nor I may give one uninvited by the legislature. Government is free therefore to set its terms (unless the policy violates a limit on government speech, such as the Establishment Clause). Second, does either the House or the Senate policy violate the Establishment Clause? The answer is probably neither violates the Constitution as currently interpreted. Legislative prayer was upheld against Establishment Clause challenge in *Marsh v. Chambers* (1983). Nonsectarian prayer of the House variety is almost certainly constitutional and even Christian prayer is constitutional if it is balanced with non-Christian prayer. The higher law tradition I will be introducing at the NN Convention in two weeks would also allow religious prayers to open legislative sessions but only if balanced not only among religious traditions but nonreligious traditions. The point of any legislative prayer or meditation is to remind ourselves that law is supposed to support truth and not just self-interest. That is a good reminder no matter what tradition it comes out of.

8/4/2009—One of the best illustrations of the need for a new theory of church and state is the question whether the government may post the Declaration of Independence in every public schoolroom in the country. Actually it is not a question. Obviously the government may do so. The question is why the government may do so. The problem of course is the grounding of rights in their endowment by their Creator in an early section of the Declaration. Plenty of religious believers use that language to show that this is a Christian or at least religious nation. The strict separationists who want the government to have nothing to do with religion are confronted here with an ontological issue. If we are endowed by God with our fundamental rights, then a secular public life is impossible in principle. The answer as to why the Declaration can be posted can have nothing to do with the government's purpose. The Declaration can be posted regardless of whether the Governor of a state hopes they will spark a religious revival. The Declaration can be posted for one of three reasons. First, it is simply a patriotic reminder of our independence from England. So the Supreme Court has in fact suggested. But the Declaration makes a fundamental political claim—that human rights are not inventions of men. It was a document of an idea. It is not a museum piece. Second, it can be posted because monotheism is compatible with the Establishment Clause. This is Justice Scalia's theory. But Scalia excludes nonbelievers and nonmonotheists. Finally, and my proposal, the Declaration can be posted because it can be reinterpreted to be a claim applicable to all kinds of beliefs, religious and nonreligious. The belief that rights are real represents the theory of objective value. Our rights are built into the way things are. The religious believer hears the word God and hears the grounding of a political claim. The nonbeliever hears the word God and hears a different kind of grounding of the same political claim. But they both hear and accept the same political claim. The worldwide movement of universal human rights depends on our getting this right.

Title: End of Life Counseling

Date: 2009-08-08T07:00:00.002-04:00

8/8/2009—Since everything in America is partisan, I guess there should be no surprise that end-of-life-counseling has become a pawn in the fight over healthcare reform. But it is a shame that this has happened. I am now watching the final stage of life of a dear friend of my wife and I see how valuable such counseling can be. My feeling has nothing to do with saving money and resources. It has instead to do with minimal decency in the last stages of life. I have just watched someone who will soon pass away driven forty miles in an ambulance for a transfusion that will extend life only for a very short while. The context is that the technical capacity of medical science seems to have outgrown the ability of doctors and patients to communicate choices meaningfully. Once a patient's illness is determined to be terminal, a frank conversation between patient and doctor would begin as follows: it is clear that you will die from this disease in a short time. Nothing we do will prolong your life for more than a few days to a few weeks. And, if we begin treatments, you will suffer more pain from the procedures than from your disease. Under such a course, it is likely that you will end your life in discomfort and confusion rather than in peaceful communion with your loved ones. If I were you, I would just go home now and get ready to die. Hearing this, many patients would go home. A few would opt for treatments. Why don't such conversations happen? Of course sometimes they do. They do not happen more often for at least some of the following reasons. One, doctors don't like to be candid in this way. They might be wrong about their diagnosis. Or, there might just be a miracle. Patients also know this. But in the instance I am speaking of, no one is even trying to cure the patient because there is nothing to do at this stage. So, whether the conversation happens or not, the invasive procedures that are going on are not even aimed at defeating the disease. The suffering they are causing is pointless. A second reason is that some people are just not ready to die. They do everything they can to delay it at any cost of their own suffering. Perhaps this is not even conscious. I used to think that secularists would have this problem more than religious people. Now, I am not so sure. None of this has anything to do with abortion or stem cell research or euthanasia. When the doctor and the patient agree to do nothing but treat the pain the disease is causing, life simply ends naturally. Hospice has done this for years. With end-of-life-counseling, this humane course might be followed earlier and much pain avoided.

Title: Hallowed Secularism at the Netroots Nation Convention

Date: 2009-08-09T12:13:00.003-04:00

8/9/2009--Check out today's story in the Post-Gazette,
<http://www.post-gazette.com/pg/09221/989701-176.stm>. Only two
panels are mentioned, including the one on a new vision of
church and state.

Title: New Livestream Address for Friday's panel

Date: 2009-08-10T17:45:00.001-04:00

8/10/2009--the address is now

<http://www.ustream.tv/channel/nn09-2> or you can just go to
www.netrootsnation.org.

8/12/2009—No one could fail to be depressed by the anger displayed at the town hall meeting held by Senator Arlen Specter. The anger is representative of disrupted meetings on health care all over the nation. In a way, none of this is surprising. Plenty of it is rigged by well-organized conservative groups. But, on the other hand, this must be the first time in history that people have come out to protest in favor of large profits by insurance companies. Everyone, including the angry protestors, probably agree that the healthcare system we have now is terrible. So, why the anger over attempts to change it, even if the protestors disagree with some of the proposals? One woman was quoted in the media as saying she doesn't want this country to become Russia. But, almost all these protestors voted for George Bush. It is his mess that has led to expanded government to try clean it up. Where's the remorse? I think I have an explanation for most of the anger. These protestors, especially in Pennsylvania, are the same people of whom President Obama said, after the Pennsylvania Primary, "And it's not surprising then they get bitter, they cling to guns or religion or antipathy to people who aren't like them or anti-immigrant sentiment or anti-trade sentiment as a way to explain their frustrations." The people in these demonstrations never like or trusted President Obama. And if he thinks he understands them, as his famous quote suggests, he has not communicated to them respect and empathy.

Title: Netroots in the City Paper

Date: 2009-08-13T08:14:00.002-04:00

8/13/2009--The Pittsburgh City Paper covered tomorrow's
panel,

<http://www.pittsburghcitypaper.ws/gyrobase/Content?oid=oid%3A67204>

Title: Higher Law at Netroots Nation

Date: 2009-08-15T05:57:00.003-04:00

8/15/2009—Yesterday, a distinguished panel debated my proposal for A New Progressive Version of Church and State. The moderator of the panel was Chuck Freeman, known to many on the religious left as the host of Soul Talk Radio. I presented the proposal, which was then responded to by Rev. Janet Edwards, Fred Clarkson and Vic Walczak.

Edwards is an ordained minister in the Presbyterian Church (U.S.A.). Charges were brought against her twice in the church because she presided at the wedding of two women. She was acquitted of all charges by the church court with a vote of 9-0. She is Co-Moderator of More Light Presbyterians which advocates for LGBT equality in the Presbyterian Church (U.S.A.) and is a member of the board of Demos. Clarkson is an independent journalist, whose writing about politics and religion (especially the Religious Right) has appeared in magazines and newspapers from Mother Jones, Ms. and Church & State magazines to Salon.com and The Christian Science Monitor. His book, Dispatches from the Religious Left, is being read widely. Walczak has been Legal Director of ACLU-PA since 2004. Although known for a variety of high profile cases, his particular expertise on the panel stemmed from his role as one of three lawyers who successfully tried *Kitzmiller v. Dover Area School District*, the first case challenging the teaching in public schools of “intelligent design” (ID), which a federal judge concluded was simply creationism repackaged.

The proposal being debated was that government may use religious language in the public square without violating the Establishment Clause when that language may plausibly be asserted to represent a nonreligious commitment. For example, the word “God” can refer to the ceaseless creativity of the universe and the objective validity of human rights. Arguably, this was the role of the “Creator” language in the Declaration of Independence.

The panel deserves a longer setting than this blog and I need some time to process the experience. Certainly, most people in the room opposed the proposal and objected to the use of God language and other religious imagery by government. There was a general feeling that fighting over the words “under God” in the Pledge of Allegiance would be politically harmful to progressive causes, but the opposition in principle remained. As Clarkson reminded the crowd, the Constitution does not mention God and, he argued, that is the appropriate model for the Establishment Clause. Walczak objected that if the word God can be used by government, then why not “God opposes abortion”? At the same time, all the speakers reasserted the right of religious believers to participate in the public square in their own, private speech on their own terms, including their use of sectarian religious speech. There was some concern about this point among the audience but time ran out as the issue was being raised.

Two large questions seem to me to be raised by yesterday’s event. First, what is the constitutional ideal of the left in terms of religion in the public square? Is it that government should not itself ever use religious imagery, including the word God, and that such religious language should not be used at government sponsored events, such as Presidential inaugurations? Whether politically palatable or not, people should be clear about their commitments. Second, as America grows more secular, is there a need to turn to religious traditions for sources of wisdom and meaning, or is there not? These two questions might be distinct, but I think they are related.

Title: Religion Dispatches Discusses Netroots Nation Panel on Church and State

Date: 2009-08-16T07:33:00.000-04:00

8/16/2009--Check out the online magazine Religion Dispatches for an upcoming discussion of the panel on church and state at the recent Netroots Nation convention.

Title: What the Healthcare Debate Says About America

Date: 2009-08-19T08:17:00.001-04:00

8/19/2009—The healthcare debate dominated the Netroots Nation convention. But what is that debate about? Healthcare is an important and complex issue. But it is not primarily an issue of social justice. Healthcare for the uninsured and for those who change jobs is a social justice issue, but those matters are addressed, to a certain extent at least, by all sides in the current debate. The controversy centers on matters such as the public option and end-of-life issues. If I may say, these are identity politics issues. They go to whether America is primarily a capitalist nation with social welfare aspects or a social welfare nation with capitalist aspects. The healthcare debate seems to be about the role of government, as have been most domestic debates since Ronald Reagan. As I sat listening to Dr. Howard Dean address healthcare at the Convention (there is no reform without the public option), I thought about what was not being addressed. The Convention was not engaged about global warming or about poverty. Healthcare in the end is about me—my costs, my health, my future. Global warming and poverty are about others. We were not even talking about the two wars our nation is fighting. Part of the reason America's healthcare costs are so high is our materialistic individualism. I can't bear to die because I am so unique. So, at the end of my life, when there is no hope of cure, I want all these tests and treatments. And I don't want anyone else to say, enough is enough. It's ridiculous and it shows that America is not nearly as religious as people think. Not really. (Even our religious beliefs are individualistic, centering on heaven in a way Jesus would not recognize). For a narcissistic country a healthcare debate is a perfect symbol. It's a debate in which each of us is number one.

Title: God is God

Date: 2009-08-22T09:02:00.003-04:00

8/21/2009—I have run into a problem I did not expect: secularists accepting religious fundamentalism's definition of God. My constitutional law proposal is that government may use certain religious images, such as the word God in the Pledge of Allegiance, when that religious image has nonreligious and broad meaning. For example, "One Nation, Under God" can mean we recognize that there are objective and enduring standards of right and wrong that are binding on this country. To this proposal, in addition to other criticisms, Frederick Clarkson responded in the Pittsburgh City Paper, "It's preposterous, God means God. It doesn't mean 'universal values'". This objection is now being repeated in blog postings discussing the netroots nation panel, for example the Friendly Atheist : "God is a deity". But put this way, the objection is childish. Have people never heard of the Protestant theologian Paul Tillich and his references to God as the ground of being, our ultimate concern and the God above the God of theism? And what about the Catholic theologian Karl Rahner, who wrote that God really does not exist who operates and functions as an individual existent alongside of other existents, and who would thus as it were be a member of a larger household of all reality. Instead, says Rahner, God is "the most radical, the most original, and in a certain sense the most self-evident reality." Frederick Clarkson even quoted Chris Hedges in his own book denying that God means a supernatural being: "God is a human concept. God is the name we give to our belief that life has meaning, one that transcends the world's chaos, randomness and cruelty. ... The question is not whether God exists. The question is whether we concern ourselves with, or are utterly indifferent to, the sanctity and ultimate transcendence of human existence." Why accept definitions of God propounded by people you don't agree with? Maybe to kill any possibility of rational religion

Title: Getting Out by Going In

Date: 2009-08-26T16:03:00.000-04:00

8/26/2009—How do you change the world? A friend recently told me that the only answer to that is by changing yourself. First of all, that is the only thing you actually can change. We don't have the actual capacity to change the world. Second, we never know how to change the world while we might have an inkling as to how to change ourselves. Third, our actions in the world are ambiguous whereas this is less true with regard to ourselves. But isn't this the counsel of quietism? I'm worried about global warming and you tell me to change myself, in some Zen fashion. But look at the record. The great sages—Buddha, Jesus, Mohamed, Gandhi—changed their consciousness first. World change followed. Even Jonah had to change himself first, before he was any use to Nineveh. Well, then, what change in myself? We are all different but I imagine that the place to start is not to hate.

Title: Declare Healthcare Victory and Go Home?

Date: 2009-08-29T07:38:00.000-04:00

8/29/2009—Nationally syndicated columnist Charles Krauthammer makes a good point in the Post-Gazette today. He says Democrats should just pass a healthcare reform bill with universal coverage that outlaws insurance coverage refusal based on preexisting conditions. There would be huge public support, the Republicans would be forced to go along, President Obama would get a win and the bills would come due only later. This proposal appeals to me because coverage for the poor, near-poor, laid off, and disabled has always been my real interest in healthcare. I would prefer a single payer system but why go to the mat over making the system more efficient? Isn't the social justice issue the main thing?

Title: Is Everything Mysterious Vacuous?

Date: 2009-08-31T12:11:00.001-04:00

8/31/2009—I came across an odd, but perhaps revealing criticism of Teilhard de Chardin in a July 2, 2009 letter to the New York Review of Books by Edward Oakes, a Catholic Priest who teaches at the University of St. Mary of the Lake. Oakes' criticism of Chardin—the precise context does not matter, I think—was that “Teilhard's writings are a farrago of Bergsonian vacuities” referring to Henri Bergson, presumably. (farrago is a medly: I just looked that up). Oakes quotes Peter Medawar's description of Chardin's work *The Phenomenon of Man* as “tipsy, euphoristic prose-poetry” that “creates the illusion of content”. Now in part this criticism of Chardin is humorous because, as Joyce Carol Oates responds in the New York Review, she is unable to “perceive significant distinctions” between the vacuity of Chardin and the vacuity, again I presume, of transubstantiation, which of course Oakes must believe not to be vacuous. But there is a more serious matter here. Both on the left—the hard materialists of netroots nation—and on the right—the First Things crowd (Oakes writes for the magazine)—there is agreement that anything beautiful or mysterious is bull. I was asked after the convention, for example, to define meaning, something I would have thought no human being could live without and thus would not need a definition of. Teilhard de Chardin was a Jesuit paleontologist, and by all accounts a good scientist. If someone like Chardin is struck by the fact that matter tends to life and then to consciousness, maybe that is something worth pondering. Maybe matter really is mysterious. Maybe reality itself really is mysterious.

Title: Chardin's Challenge to Secularists

Date: 2009-09-02T10:05:00.002-04:00

9/2/2009—In an essay in the book, *The Future of Man*, Teilhard de Chardin issued a challenge to secularists. In the essay, "The Grand Option", Chardin asked how we assess the future of humankind? He gave his alternatives, which he called "the human spiritual categories". The challenge to secularism is to contemplate reality with requisite seriousness. Chardin offers four choices. He believes that they define the basic possibilities. He also believes that to each choice, "there must necessarily correspond a universe of an especial kind." That is, only one choice is really true to the kind of universe there is. The first choice is in answer to the question whether the state of Being is good or evil. Is it better to be than not to be? Chardin calls this optimism or pessimism. Is the universe pointless? Is humankind going to get anywhere? If not, why not end things now? Although Chardin notes the modern temper toward meaninglessness, he does not take it seriously, given the growth and expansion of consciousness. There has been progress in the universe from inorganic to organic, to consciousness, to self-consciousness and so forth. This justifies optimism. The next question is, optimism of withdrawal or of evolution? Do we engage the world or refrain from engaging? Chardin chose engagement because of his faith in the spiritual value of matter. The final question is evolution toward divergence or convergence, plurality or unity? Chardin chose unity over against what could be called the capitalist cult of individualism (not Chardin's term). We do not perfect our creativity in opposition to others but in association with others. So, take your pick. Is the universe ordered or disordered? If ordered, is it exhausted or still young? If young, is it divergent or convergent? This is secularism, not religion. But it is a particular kind. It is hallowed secularism.

Title: Blurring of Church and State on Healthcare

Date: 2009-09-04T09:03:00.001-04:00

9/4/2009—On August 27, Conservative columnist for the Jewish Chronicle in Pittsburgh Abby Wise Schachter criticized President Barack Obama over healthcare. No surprise there. But the ground was mixing church and state. Obama had addressed a conference call to 1000 rabbis some days before, saying among other things, “We are God’s partners in matters of life and death.” Schachter asked sarcastically how Obama learned of God’s endorsement of the public option. Fair enough. No one can claim that God supports some particular public policy by some particular political party. (Did Schachter criticize George Bush on similar grounds over his claim that God told him to invade Iraq? Maybe she did). And Schachter was also on good ground to criticize Obama for suggesting, if he did, that rabbis should talk about healthcare reform during the high holy days. But Schachter went much further. She wrote, “Employing moral/religious reasoning in support of a public policy issue is inappropriate.” And she quoted Rabbi Josh Yuter criticizing “the blurring of church and state.” Now wait a minute. One of the criticisms of the Obama plan—false, but still repeated—is that end-of-life counseling pushes people into suicide. What is that if not a moral claim? For that matter, is Schachter serious that even “moral” reasoning has no place in public life? That would surprise Abraham Lincoln. And if God is really irrelevant to public policy, if God does not care whether a society cares for the widow, the orphan and the sick, what were the prophets talking about? Judaism considers such responsibilities communal, not individual. (That does not mean Obama’s plan is a good idea; it only means that people dying from lack of healthcare would be a religious issue as well as a political one). I don’t blame Schachter. She is just repeating the nonsense of separation of church and state that is in the air. I blame liberals trying to cleanse the public square of all religious language. Schachter’s column is the result.

Title: "Debate" Over Obama Speech an Unpatriotic Disgrace

Date: 2009-09-05T07:07:00.002-04:00

9/5/2009—Eleanor Chute reported in the Pittsburgh Post-Gazette today that some school districts will not show President Barack Obama's speech about staying in school live and others will notify parents in advance so that students can opt out of watching the speech. Gateway School District spokeswoman Cara Zanella was quoted as saying that the opt out "was fair to both sides". Sorry. When the President of the United States speaks to schoolchildren on a nonpartisan topic, there are no "sides". The Presidency is a peculiar office in political life. On the one hand, the President is a partisan, party leader. On the other hand, the President is our main symbol of national unity. When the President speaks as the leader of all Americans, political opponents seethe because inevitably this adds legitimacy to his role as party leader. But, Americans usually recognize that respect for the office is a necessary element of our democracy. If President George Bush had wanted to make this same speech about working hard and staying in school, there would have been grumbling from Democrats. But I doubt very much if any school in the nation would have opted out. Since this speech is by all accounts actually to be about staying in school and working hard, criticism that it is political simply means that political opponents of President Obama do not wish him to be seen as the legitimate President of all Americans. This is not much different from carrying a weapon near where the President is speaking. It communicates a denial of legitimacy for the President that differs from the intense policy differences experienced by President Bush. I hated the Bush presidency, but I don't think I saw him as not really the President. (Some Democrats did deny his legitimacy, because of Bush v. Gore). Republicans and other Obama opponents are beginning to act like the people they profess to oppose. They are acting like people who hate America. In fact, they are acting like people who don't believe there is such a thing as America. By refusing to treat President Obama as genuinely the President of all of us, they are threatening the democracy they claim to love.

Title: How Did Corporations Get Constitutional Rights?

Date: 2009-09-09T10:41:00.001-04:00

9/9/2009—In the midst of arguments over the negative impact of a ruling by the United States Supreme Court in the case being argued today limiting the power of the government to regulate corporate political donations, a more fundamental question is being overlooked. Whether the issue is put in terms of who is a person for purposes of the Constitution, or is put in terms of who is protected by freedom of speech, the first question to ask is whether corporations are protected by the Constitution at all. Conservative constitutional theory insists that the Constitution be interpreted in terms of its original meaning, albeit updated for changes in technology and so forth. I doubt that at any relevant date, the framers of either the original Constitution or the framers of the Fourteenth Amendment thought that corporations had constitutional rights. Rights were reserved for human beings, including human beings in associations. But corporations were artificial entities. They only existed at the sufferance of the State. Indeed they were considered creations of the State. I don't know of any historical evidence that would contradict this. The Court has never squarely faced the question of corporate rights, although in several cases, the Justices have seemed to assume that such rights exist. But now is the time to confront the question directly. Corporations do not have rights. Rights are restricted to human beings. You might as well ask whether dolphins have constitutional rights. Justice Scalia tried to finesse this question by referring, in *McConnell v. Federal Election Committee* (2003) to the negative implications of permitting limits on corporate speech. Well, I'm sorry about that. But no one ever said our Constitution is perfect. If Justice Scalia wants to change the meaning of the Constitution, he should get it amended rather than trying to change its meaning through fanciful interpretation. I thought he would be the last one in the world to make that mistake.

Title: Political Certainty and Religion

Date: 2009-09-11T13:19:00.001-04:00

9/11/2009—Although many Democrats despised President George W. Bush and thought he was a liar, I don't remember any of them yelling "You lie" at Bush during a President speech to Congress, as Republican representative Joe Wilson did during President Obama's speech on healthcare. There is one important difference between liberal and conservative groupings in America that might explain this behavior. Conservatives like Wilson are either self-proclaimed religious people or are supported by such people, or both. While there are many religious liberals, religion does not usually occupy as prominent a role in liberal politics. I am suggesting that the true believer mentality that treats political opposition not as rather simple disagreement, but instead, as apocalyptic divide, may have to do with this religious orientation. It may surprise readers of this blog that I acknowledge this, since I am an admirer of our religions and their place in politics. But I do recognize this tendency. Religion can make people more intolerant. That is why I would like to quote Pope Benedict, writing before he became Pope, in the book, *Truth and Tolerance*. Speaking of relativism, Pope Benedict writes, "The one single correct political option does not exist." (117). The church has no special expertise in how to bring about just and efficient healthcare, for example. Not everything is a fundamental moral issue. Benedict knows that. Some Americans forget.

Title: More Pope Benedict on Religious Certainty in Politics

Date: 2009-09-12T19:16:00.001-04:00

9/12/2009—This quotation is from the book *Many Religions—One Covenant: Israel, the Church and the World*, which was published in 1999 in English, before Benedict became Pope. He is discussing the proper role of religion in political life (at page 101): “Of course our efforts on behalf of peace, justice, and the protection of creation are of the highest importance, and religion should doubtlessly provide a vehicle for substantial action in this regard. But the religions have no a priori knowledge of what serves peace here and now, or of how social justice can be built within and between states, or of how creation can best be protected and cultivated out of a sense of responsibility to the Creator. All these things must be worked out rationally and on an individual basis. This always requires free debate between differing opinions and respect for different paths. Often this pluralism of paths cannot be resolved, and if the wearying rational debate is cut short by a religiously motivated moralism that declares one path to be the only right one, religion is perverted into an ideological dictatorship, with a totalitarian passion that does not build peace but destroys it.” Notice that Benedict is here discussing all of “the religions”, not just Christianity. All religions apparently have this tendency to political imperialism and all religions lack the wherewithal to define programs in social life. All religions risk moralism when they try. C.S. Lewis said something similar: religion tells us the goal while politics tells us how. Undoubtedly both right and left are guilty of too direct an appeal to religion. But, right now, I am hearing how God does not want a public option. It is just ridiculous.

Title: Religion Dispatches Magazine Continues Church/State Debate

Date: 2009-09-15T10:07:00.007-04:00

9/15/2009--For all of you who just could not get enough of the church/state debate at the netroots nation convention, the online magazine religion dispatches has continued the conversation today at Religion Dispatches. Take a look.

Title: None

Date: 2009-09-17T22:22:00.000-04:00

Title: God is Just Another Word

Date: 2009-09-17T22:50:00.001-04:00

9/17/2009—Some religious believers have found this headline used by the editors at religion dispatches offensive. I can well understand that. It is not a phrase I would use. Yet, I understand how the editors could read my ideas about church and state and come to this understanding. I'm not complaining. I have suggested that the word God can refer to different kinds of ideas and to some that might mean that God is just a word like any other. I would say, however, that the reason the word God can refer to the creativity of the universe, for example, and the absolute value of right and wrong is not that God is just another word, but because it is such a large word, with so much in it. I would have preferred a headline that stated, God is the Largest Word We Have. This is in part why the fact that some religious believers hear the word God in only one way, as an all-powerful being, does not cause me to want to shun the word. Religious believers do not have a monopoly on the word, God. I am reminded of a story about a conversation that Niels Bohr had with Werner Heisenberg in the early 1920's. Bohr said that his starting point for the new physics was the inexplicable stability of matter, upon which all life depends, but which is not really justified within classical physics. To try to explain it, Bohr invented the concept of electron "orbits" that you have probably seen in high school science classes. But Bohr told Heisenberg that he never took literally that an atom is a small-scale planetary system. The image was just meant to be suggestive. I think it is the same with God. We start with the experience that reality is not coldly indifferent to us and that certain values of goodness have more weight in history than does evil. We then use the image of a god to refer to these experiences. Then someone confuses a helpful image for the thing itself. God as a being is inappropriate concreteness.

9/19/2009—I am in Florida visiting my ailing father. For him, my secularism is entirely theoretical. We still go to synagogue on the holidays. It makes me happy that for him nothing has changed. He has enough changes to deal with. But, back in the Jewish calendar, so to speak, I am impressed again with its rhythm. The thirty days before Rosh Hashanah (today), that is, the month of Elul, are spent in regular introspection. The nine days following RH are spent in somber intensity, almost in silence. Then Yom Kippur, with its 25 hour total fast, is intense, mystical drama. All of this is aimed at purifying my soul. Daniel Dennett, the well-known atheist and scientist, came to a New York conference last spring and announced to its largely secular audience, as he loves to do, “tell everyone you know that you do not need religion to be good.” And if the standard is not killing anyone or cheating on your spouse, that must be true. But what if the standard is sacrifice of self? Is it then so obvious? Without a period every year of intense concentration on my failings, or even just my falling short, will I constantly renew my fresh promise? And even with such self-reflection, if I am not in the presence of that which exceeds my own existence, will I even begin to surmount ego? The Jewish calendar has a rough symmetry. The question is always slavery. In the fall Jews ask, to what am I personally enslaved? (This can include of course enslaved to the need to be different) In the spring, at Passover, the question is, to what are we as a people enslaved? (This also can include a national illusion of difference). Where will secularism go without the institutionalization of such questioning? But there is even more. The ultimate standard is sainthood. That might mean ultimate acceptance of myself. Certainly it means putting the world before myself without everyone knowing about it. I don’t know any secular saints and I don’t expect to meet any. Religion is a work-out regimen for sainthood, for ultimate salvation. I keep hearing that there are alternatives to it. But I have not yet seen them work.

Title: ACORN's Crime is Organizing Poor People

Date: 2009-09-21T04:37:00.004-04:00

9/21/2009—You think there is democracy in this country? Freedom of Speech? Try exercising your rights and you'll find out differently. If you don't believe it, look at the attack on ACORN. Were crimes committed? Apparently someone committed embezzlement at the organization. That makes ACORN a victim of crime, not a criminal organization. Voter fraud? That crime is committed when you pay someone to vote a certain way or pay someone to vote who is not eligible. Submitting false voter registration forms, as in one case of a form containing the name Mickey Mouse, is no threat to democracy unless Mickey actually votes, which apparently did not happen. False tax information? If you sent undercover agents to H&R Block, you would catch errors too. For that matter, didn't those undercover Republicans who "investigated" ACORN commit crimes along the lines of people who have gone undercover at agricultural facilities and meat packing plants and have been prosecuted or sued? Republicans are after ACORN because if poor people organize, they will vote Democratic. Democrats are unwilling to defend ACORN because there is an air of radical politics about the organization and the Democratic Party worships the status quo and gets most of its money from wealthy interests. Whatever mistakes or errors the organization has made don't amount to a hill of beans. ACORN's real crime is organizing poor people. Even unions don't do that. In a capitalist society, there is no greater crime.

Title: The Death of the Death of God

Date: 2009-09-24T10:07:00.001-04:00

9/24/2009—Steve Rabey, writing in the blog Get Religion, opened a recent post as follows: “John T. Elson died on Sept. 7. John who, you ask? The New York Times’ obit explains that Elson was the Time religion editor who wrote the magazine’s famous 1966 cover story asking: ‘Is God dead?’” Notice the date of that famous Time story, 1966. In 1966, a popular magazine took note that some Christian theologians were wrestling seriously with a notion like Dietrich Bonhoeffer’s “religionless Christianity” and reinterpreting the meaning of and possibility of belief in God. Yet, when I suggest that references to the word God in the public square can be reinterpreted along secular lines, I get the tired response that “God means God”. And from secularists, yet, Elson’s death should remind us that the statement “I don’t believe in God” is not only ambiguous but incomplete. First, what God do you not believe in? Second, and most important, what comes next? For these Christian theologians, the absence of God did not mean the absence of meaningful, and necessarily secular, faith.

Title: A Secular Yom Kippur

Date: 2009-09-27T08:22:00.002-04:00

9/27/2009—The above title refers to two aspects of Yom Kippur today for me: my own secular journey, which may cut me off from a very meaningful experience, and the future of secularism in general. Yom Kippur means day of atonement. It is the holiest day of the Jewish calendar. The ceremony originally involved sacrifices at the Temple. This ceremony later changed to one involving chickens. Most liberal Jews are not even aware of this, but I experienced it when I was a Yeshiva student. I remember the day of the chicken very well. Here is a description: "The Kaparot ritual involves taking a chicken (a rooster for a man and a hen for a woman) or money in your right hand and revolving it over your head while reciting a prayer. The prayer finishes with the following declaration: 'This is my exchange, this is my substitute, this is my atonement. This chicken will go to its death (or, if using money, 'this money will go to charity') while I will enter and proceed to a good long life, and peace.' The chicken is then slaughtered and it (or its cash value) is given to the poor. This ritual is meant to symbolically express our recognition that we have sinned and are no longer deserving of life. By killing the chicken we are stating that, in truth, this should be our fate but that God has given us the opportunity to return to Him through teshuva and Yom Kippur. It is important to realise that Kaparot is not a magical means of removing your sins. Only teshuva, 'repentance' can do this. Kaparot is a way of inspiring and expressing teshuva." The question is whether a secular person can find a way to fundamental renewal. I will go to synagogue tonight and I will try to fast tonight and tomorrow. But since I am no longer a member of the synagogue, which is a symbol of no longer belonging to the community, I don't think the day will happen for me as it used to. Many secularists do not seem to understand the need for repentance. Purification is alien to them. But the old image is still the best one. Once, your soul was shiny and new. You have accumulated dullness and even some tears in your soul. That means that you have lived in an ok fashion most of the time. You have done some real harm some of the time. And you have done shameful things a few times. I say this about you because it is true of me and you are no better. But you can only repent in the presence of something larger and better than yourself. Where will this come from in secularism? John Dewey might say that it could come from the ideal version of myself—what I could have been and what I could have done. If so, we would have to believe that sin can be forgiven. Perhaps life itself gives us a new chance every year. I hope all my readers experience growth and satisfaction in the year to come.

Title: Final Reflection on a Secular Yom Kippur

Date: 2009-09-30T15:59:00.001-04:00

9/30/2009—Monday was my first experience at Jewish services as a non-Jew secularist. I went anyway, and fasted, because Yom Kippur has always been a crucial event to me, a day of genuine spiritual experiences. I was not sure what would happen. I was warmly welcomed at the synagogue to which I had belonged for many years. These have been friends and witnesses in my life. My gradual estrangement from Judaism was assumed, and regretted, from what I could tell. But, still, I felt at home with the community. I even felt the pull of the familiar at Kol Nidre. What a beautiful service. And the next morning, before going to services, how fresh and alive everything seemed. Nevertheless, I now see there is no such thing as a secular Yom Kippur. Without the commitment to the myth as a member of the community, the renewal that the High Holy Days promise is not possible. And the concepts of repentance and forgiveness now must be reformulated. I don't yet see how that is to be done. One thing is certain. Something in secularism must allow for radical transformation. At the moment, transformation itself is rejected as a religious category. The day to day is revered, as if to yearn for something more is to betray secularism. I am left asking, what is the point of secular life?

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.

Title: I Left Judaism Because I am Ross Douthat and not Karen Armstrong

Date: 2009-10-04T15:23:00.002-04:00

10/4/2009—In today's New York Times book review section, there is a wonderful moment in Ross Douthat's review of Karen Armstrong's new book *The Case for God*. Douthat rather praises Armstrong's description of an important tradition in the monotheistic faiths: the pursuit of an unknowable Deity "to be approached through myth, ritual and 'apophatic' theology, which practices 'a deliberate and principled reticence about God and/or the sacred.'" Religion is not something to be thought but something to be done. Religion in the West lost this "knack" because it tried to emulate the truth claims of science, which has now led to bizarre attempts to prove the Bible's compatibility with modern scientific theories. Armstrong shows that most of the Church fathers, for example, did not read Genesis literally, the way that many so-called conservatives do today.

Douthat does not dispute what Armstrong describes—he apparently agrees that much conservative religion is know-nothing—but he disputes Armstrong's ultimate conclusion: that the three monotheisms were essentially liberal religions prior to the scientific age: "It's true that Augustine...did not interpret the early books of Genesis literally. But he certainly endorsed a literal reading of Jesus' resurrection."

But then Douthat makes a different point, not that liberal religion is less true but that it is less fulfilling and sustainable. "It's possible to gain some sort of 'knack' for a religion without believing that all its dogmas are literally true: a spiritually inclined person can no doubt draw nourishment from the Roman Catholic Mass without believing that the Eucharist literally becomes the body and blood of Christ. But without the doctrine of transubstantiation, the Mass would not exist to provide that nourishment. Not every churchgoer will share Flannery O'Connor's opinion that if the Eucharist is 'a symbol, to hell with it.' But the Catholic faith has endured for 2,000 years because of Flannery O'Connors, not Karen Armstrongs.

This explains why liberal religion tends to be parasitic on more dogmatic forms of faith, which create and sustain the practices that the liberal believer picks and chooses from, reads symbolically and reinterprets for a more enlightened age. Such spiritual dilettant-ism has its charms, but it lacks the sturdy appeal of Western monotheism... ."

Douthat describes essentially my feelings about Judaism. My "faith" is probably very close to that of Armstrong, but it finally seemed false to me to describe it as Judaism. So I call it Hallowed Secularism, which seems more faithful to the break between my beliefs and those of the ancient rabbis. Or, to put it another way, whether God performs miracles or not, they did not doubt that he could do so if he wished. For me, miracles, and the kind of God who could perform them, are ruled out in principle.

This agreement does not mean that the kind of religion Douthat describes is actually possible in the long run. Religion cannot exist if it is inconsistent with the given certainties of the age.

Title: The Temptations of Standing

Date: 2009-10-07T07:29:00.002-04:00

10/7/2009—I was thinking of Alex Bickel’s concept of the “passive virtues” as I listened to NPR’s story about today’s oral argument in *Buono v. Kempthorne*. This is the case about the WWI memorial that began as Latin Cross privately, and illegally, erected on public land. How tempted the Justices are going to be to decide the case on the ground that the plaintiff, who merely passes the cross every day, lacks standing to bring the case. Not only would such a ruling decide today’s case but it would potentially end most of the litigation that currently takes place around issues of church and state. I hope the Supreme Court will resist this temptation. If the Court had never entered the field of church and state, we might as a people have muddled our way to compromises over religious imagery in the public square. But the Court did enter the fray in 1947 and ever since has promised government neutrality toward religion. It is that promise that the ACLU has been trying to redeem. If the Court decides that the separation of church and state is no longer an issue that can be litigated, it will be leaving the matter to a politics poisoned by the Court’s constitutional vision. The politics that moves into the resulting vacuum will not be healthy, as secularists claim that the forces of religion are violating the Constitution and supporters of religious imagery dishonestly claim that they are not foisting religion on the rest of the country. Leaving the field is particularly troublesome in *Buono* because the image at issue, a cross, is not a generic symbol of religion but a particular Christian symbol. Shortly after a standing ruling, legislation may be introduced to change the Pledge of Allegiance to “One Nation under Christ”. The way for the Court to end divisive litigation over church and state is not to close the courts but to answer the question of religion in the public square. My proposal, for example, is for the Court to retain neutrality but to defer to a plausible government claim that a religious symbol is being used to communicate a non-religious message. In *Buono* that means accepting the government’s claim that the cross was used as a universal symbol of military sacrifice in WWI. This is certainly plausible. And then we could all hold the government to its word: religious symbols can sometimes be used in the public square, but only when their nonreligious meaning is palpable.

Title: President Obama's Nobel Peace Prize

Date: 2009-10-10T07:26:00.002-04:00

10/10/2009--I know I am not the only one who is embarrassed by the award of the Nobel Peace Prize to President Barack Obama before he has accomplished anything important internationally. By the reasoning of the Committee, I should have received the award. I'm not George Bush either.

Title: Steve Waldman Doesn't Get the Cross

Date: 2009-10-12T18:54:00.003-04:00

10/12/2009--Last Thursday, Steve Waldman, the well-known author and Editor-in-Chief of the popular religion blog Beliefnet, posted a blog entry on an exchange between Justice Scalia and Peter J. Eliasberg, the attorney for the ACLU in the oral argument in *Buono v. Salazar* (Secularizing the Cross). *Buono* is the case about the cross that was declared a national monument honoring the dead of WWI. Waldman's point was a warning to Christians pressing for such religious symbols in the public square to beware of the spiritual danger of reducing the cross to a secular symbol of the dead in war. I have published a response to Waldman on Religion Dispatches (Secularizing the Cross Response). As readers of this blog well know, I think that all religious symbols have combined religious and secular meaning. Not only is this not a danger, it is appropriate since religion is supposed to have this-worldly effects. That is part of the reason that religion can never be relegated to the private sphere.

10/16/2009—Professor Mark Silk, the Editor of Religion in the News and the Director of Leonard E. Greenberg Center, and professor of religion and public life at Trinity College in Connecticut, has asked the perfectly direct question of my higher law proposal for the Establishment Clause on the Greenberg Center blog, *Spiritual Politics*: “Drop kick me Jesus”. In the post, Professor Silk describes the custom at a Georgia high school at which the football team bursts through a large banner containing a biblical phrase held up by the cheerleader squad. The picture on the blog is of a banner quoting Philippians 3:14: “I press on toward the goal to win the prize for which God has called me in Christ Jesus”. Professor Silk asks “how Bruce Ledewitz’s ‘plausibility’ test would apply in this case. Is there a plausible secular justification for the Philippians 3:14 banner above?” The answer is no, there is no plausible secular justification for this banner quote or for the entire practice of Bible citation. This is an easy case in which every Justice on the Supreme Court would agree that there is an Establishment Clause violation, except possibly for Justice Thomas, but only on federalism grounds. And I am fortunate, since the plausibility is so deferring to the government, to now have an example in which the test has some teeth. Most uses of religious imagery by government will be constitutional under my proposal, but this one is so extreme that it cannot be regarded as anything other than an endorsement of Christianity in particular and biblical religion in general.

Title: Where Does Relativism Come From?

Date: 2009-10-18T07:35:00.000-04:00

10/18/2009—As I have been doing research for an upcoming book on a new, higher law approach to the Establishment Clause, I have looked at the attitude of the New Atheists toward relativism and its darker twin, nihilism. My proposal is that the government may combat relativism in educational efforts that include the use of religious symbols. The idea of higher law or objective value in general is that there is such a thing as right and wrong beyond human opinion. I had assumed that the New Atheists, such as Christopher Hitchens and Sam Harris, would endorse relativism, but they do not. Harris said in Newsweek a couple of years ago that he believes in absolute right and wrong and in 2002 Hitchens berated the left for not recognizing the “evil” of Saddam Hussein. Only Richard Dawkins seems to accept relative values as the actual state of the universe. The New Atheists are certainly attacked as promoting relativism, so what is going on? Of course it may be that the New Atheists are lying for propaganda purposes. They might just not want to admit that their positions are essentially nihilistic. Or, it may be that their positions are nihilistic despite themselves. Others may see the implications of what they say better than they do. I believe Charles Taylor suggests for example that atheistic ontology is inconsistent with objective values. I can certainly testify that most secular people I speak to embrace relativism and reject objective values. There seems to be a disconnect here that I cannot yet understand.

Title: Are Secularists as Good as Believers?

Date: 2009-10-20T09:52:00.001-04:00

10/20/2009--Once again the question has been raised on this blog about whether secularists are as good people as religious believers? On one level this is easy to answer. Religious believers organize most of the charitable works in the world. Secularists do much less as a group. On the other hand, the more often a person goes to a religious service, the less likely that person is to support gay marriage, which I consider a fundamental human right. Part of the reason that the question is so difficult is that there are not actually many secularists around. The nonbelievers I know are mostly young and mostly were formed within the religious traditions. Do they really count as fully secular? But I will say two things. We know how Christian civilization hands down its values. It does this in an organized way through education of the next generation and through constant teaching of its adherents. I was in church this last Sunday and I was impressed that the congregation hears every week a message of love and self-sacrifice. That must have an effect on people over time. How will secularism do this? We can also say that the religious community, in particular the Christian community, is open to change in a way that the nonbelieving community may not be. We see this in the issue of global warming for example. The ability to change one's view may be the best measure of living a moral life.

Title: Why Does the New Atheism Fail?

Date: 2009-10-23T11:17:00.007-04:00

10/23/2009--the following selection is from a manuscript that I writing that will be entitled Higher Law in the Public Square: How the Higher Law Tradition Can Resolve the Establishment Clause Crisis and Save Secularism [does anyone know a potential publisher?]. In this section, I am discussing the work of some of the New Atheists, including Victor Stenger, Richard Dawkins and Christopher Hitchens:

*****[!]n the end, I'm not sure Stenger answers the question of how we are to live in the Godless universe. Stenger does not intend to criticize the experience of depth in human life as false or an illusion. He claims that such experiences are "purely physical" but he does not seem to mean that they are therefore any less real. Why is it that Stenger fails? He fails for the same reason that all the New Atheist writers fail. They all deny that human beings need to "fit into some grand, cosmic scheme." But Stenger's one example of genuine joy and fulfillment in life is Richard Dawkins, who plainly does "fit into some grand, cosmic scheme." Here is Stenger's quote, from Dawkin's book, *Unweaving the Rainbow*, in which Dawkins describes meaning in his life: "Isn't it a noble, an enlightened way of spending our brief time in the sun, to work at understanding the universe and how we have come to wake up in it? This is how I answer when I am asked—as I am surprisingly often—why I bother to get up in the mornings. To put it the other way round, isn't it sad to go to your grave without ever wondering why you were born?" Why you were born? That question could just as well be stated as, what grand, cosmic scheme am I a part of? Dawkins is a part of a grand cosmic scheme: humanity wakes from its preEnlightenment slumber and begins the adventure of understanding the universe through the natural sciences. It is an epic story. And it is a story that gives meaning and structure to the life of the scientist. So does the story of John 3:16 for the believer: "For God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life." The point here is not to decide which story—the scientific or this religious one—is true. The point is to convince Stenger that a story is needed. Humanity lives from such stories and ultimately cannot live without them. Our religions teach us such stories. If secularism is to flourish, it must be able to do the same and not just for a scientific elite. Dawkins' story is a grand one, but it would have to be greatly modified to be accessible to most of us. And, in any event, people like Stenger, who presumably would be doing the modifying, do not yet see the need to offer such a story to secularists.

Title: Secularism Is Growing; But What Kind of Secularism?

Date: 2009-10-25T06:41:00.009-04:00

10/25/2009--A few weeks ago a new report from the Religious Identification Survey came out with further analysis of the 2008 data that led to their original report last spring. The 2008 report had dramatically identified 15% of the American people as reporting their religion as "none". There had been criticism of at least the implications of the 2008 report because most of the growth in that category seemed to have taken place prior to 2001. Now new analysis suggests to the authors that the "none" category is continuing to grow. [New Report]If this is true, it comes as no surprise, but not for any statistical reasons. The social trends driving secular growth are very powerful and there is no reason that the drift from religion should not continue once the basic hold of religion began to weaken. Nevertheless, precise predictions of this kind are inherently unreliable. The more significant question may be, what kind of secularism is growing? Apparently a little more than half of the "nones" continue to report that they believe in God or a higher power. Then one must ask why such people have not found some religious orientation? It is one thing to leave religion because one no longer believes. Why leave if you still do? It would be unfortunate if the growth of secularism turned out to be in large part a flight from religious authorities. If that does turn out to be the case, America will end up with rootless believers who may fall for the next snake-oil salesman who comes along.

Title: The Debate Over the Future of Secularism

Date: 2009-10-31T06:22:00.002-04:00

10/31/2009—Happy Halloween everyone. In a way, Halloween is my subject today. For a debate about the future of secularism broke out last week in the “pages” of Religion Dispatches that relates to Halloween. On Tuesday, 10/27, Anthony Pinn, Agnes Cullen Arnold Professor of Humanities and Professor of Religious Studies at Rice University, wrote about attending the Atheist Alliance International 2009 convention. Pinn criticized the New Atheists (the Richard Dawkins crowd) for its negative “victory over God” approach. Something positive is needed, says Pinn. Then Austin Dacey, philosopher and author of *The Secular Conscience*, responded on Thursday, 10/29. Dacey heard in Pinn rather more than he had actually said. Dacey heard what he calls the fallacy of decomposition, the idea that as religious institutions decline, “there must be a single new institution that arises to serve the same social functions” that churches used to serve. It comes down to this. If we don’t go to church, will we go somewhere else on Saturday or Sunday mornings, or Friday nights? Some humanists expect humanist organizations to replace churches. It is the difference between supporting Doctors Without Borders and expecting them to officiate at your wedding. I pondered this same question in *Hallowed Secularism*. Is the future of secularism to be a new institution of some kind (or institutions of some kinds) or is *Hallowed Secularism* something the culture itself becomes. Dacey as usual is too glib. Does he have children I wonder? Someone actually does have to perform weddings. I hope the work of churches is not now to be taken over by the State. And some institution(s) have to help me raise my kids. Secularists who think the wisdom of Africa, “it takes a village,” is cool when confined to Africa, suddenly retreat to anarchist individualism when it comes to western culture. No, it takes more than parents to raise children here too. Which brings me back to Halloween. Here is a mainstream cultural ritual. Maybe Halloween should be the model for the secular future. Halloween is not a fringe group of humanists meeting in a hotel room. But it is not isolated families either. Nor is Thanksgiving. Nor Memorial Day. (Yet I don’t want to substitute America for the churches either).

Title: More Calls for Believers to Translate Their Beliefs

Date: 2009-11-03T17:18:00.001-05:00

11/3/2009—readers of this blog know that I have been critical of the 2006 [call](#) by then-candidate Barack Obama to religious believers to translate their religious concerns into secular language when entering the public square:

“Democracy demands that the religiously motivated translate their concerns into universal, rather than religion-specific, values. It requires that their proposals be subject to argument, and amenable to reason. I may be opposed to abortion for religious reasons, but if I seek to pass a law banning the practice, I cannot simply point to the teachings of my church or evoke God's will. I have to explain why abortion violates some principle that is accessible to people of all faiths, including those with no faith at all.’

Not only is this direction unnecessary since believers do that now and quite effectively, which is part of the reason they have been so successful in political debate, but how does Barack Obama get to play the part of political language police? In democracy I get to make my proposals in any language I like and if the language puts people off, my proposals will not be accepted. That is how democracy works.

Now comes the German social philosopher Jürgen Habermas making the same point at Cooper Union Thursday, 10/22 at the "Rethinking Secularism: The Power of Religion in the Public Sphere" program sponsored by the Institute for Public Knowledge at NYU, the Social Science Research Council and the Humanities Institute at Stony Brook University. Habermas' talk was entitled "The Political – The Rational Sense of a Questionable Inheritance of Political Theology." The other speakers were Charles Taylor, Judith Butler and Cornel West.

I don't have the transcript, but here is how Anthony Petro described this part of Habermas' talk at [Religion Dispatches](#): “Habermas, the German intellectual and author of the historic Structural Transformation of the Public Sphere, contended that religious voices ought to be allowed into public discussion, but with the proviso that religious arguments be translated into a language generalizable in secular terms.

‘Majority rule mutates into repression,’ he has argued. In order to remain neutral, in other words, enforceable political decisions must be presented in a language common to all citizens, even at the risk of limiting the field to certain players. Secular reason exceeds religious reason, for Habermas, to the extent that it doesn't require “membership” within a specific community.”

Well, maybe Petro misunderstood Habermas. I will listen to the audio transcript. But if this is what Habermas said, shame on him. How did the secular morph into the really acceptable language of politics? There are many forms of discourse I consider illegitimate, such as claims that global warming does not really matter that much because the needs of the future can be economically discounted. The point is, I don't get to decide what people can say in debate. Neither does Habermas. Nor Obama.

Title: Hopeful Signs in the Vote in Maine

Date: 2009-11-06T08:30:00.005-05:00

11/6/2009—It must be an age thing. While many people are bemoaning the vote in Maine last Tuesday that repealed Maine's progressive gay marriage legislation, I was amazed and gratified that 47% of any State would vote to support gay marriage. There are two aspects to the vote. First is the nature of representative government. I don't like it when judges force gay marriage on the people. But conservatives have been arguing that legislatures are now doing the same thing when they vote for gay marriage. That is not true and conservatives should know better. The framers of the Constitution did not give us direct democracy. They thought representative government was a better system and they were right. When legislatures vote for gay marriage, they are doing precisely what they were elected to do. Conservatives usually agree that representative democracy is best, until it is politically convenient for them to believe otherwise. Most of the time that legislatures do the right thing, whether protecting workers, improving schools, stopping global warming, or defending minorities, a direct vote might overturn the result, and in fact sometimes does in states where that is allowed. Direct democracy is subject to the corrosive effects of big money advertising and widespread prejudice to a greater extent than is representative democracy. Actually 47% support shows that the Maine legislature was not at all out of touch with the electorate in passing the original gay marriage legislation. A fair housing ordinance protecting people of color would probably garner less than 47%. The second aspect of the vote is that clearly in five years this vote will go the other way. There are now estimates that the electorate is moving to support gay rights at about 2% per year. That is part of the inevitability of gay marriage. For someone 57 years old, like me, the growth in public acceptance of gays over my life has been breathtaking. It is the simple power of truth and justice.

11/8/2009—The House of Representatives passed its version of healthcare reform yesterday. Hopefully the Senate will do the same in due course. I haven't been following the legislative changes in detail, but the final version was sufficiently neutral on abortion that Democrats for Life felt able to support the bill, which could not have passed without their votes (of course it could not have passed without any of the votes it got; it was a close call). Here is part of the statement by Executive Director Kristen Day: "Democrats For Life of America applauds Speaker Nancy Pelosi for agreeing to clear the way for the passage of this historic legislation. But we would be remiss if we didn't thank Congressmen Bart Stupak and Brad Ellsworth for their heroic efforts to fight for the amendment that removed tax payer funded abortions from the final bill." I mention this not as a point about abortion. I am pro-life, but let's face it, few secularists are and I expect pro-choice voters to feel quite double-crossed by the final healthcare bill (Ironically, if even a few pro-choice Republicans had supported the bill, Pelosi would certainly have sacrificed pro-life Democrats and defeated the Stupak amendment). My point is a different one. Opposition to healthcare reform has revived the conservative Christian coalition that supported President Bush and that had splintered over economic issues during the Great Recession. If healthcare is abortion neutral, then their opposition is not really based on abortion, though they may still maintain that it is. Then what is it based on? On the Protestant side at least, judging from World Magazine, it is based on opposition to the government's role in healthcare. Somehow the private market has become a theological goal of many Conservative Christians. This is genuinely odd. The early church was a communist community. The tradition of Christian Socialism is an old and honorable one. Karl Barth, the twentieth century's greatest Christian theologian, was a Christian socialist. Pope Benedict's encyclical *Caritas in Veritate*, *Charity in Truth*, which was issued in June 2009, was the most radical critique of global capitalism seen in many years. This is a theological issue within American Christianity. The religious left has not challenged the pro-market orientation of conservative Christianity here. The rest of us are not in a great position to do so. Nevertheless, this is a pressing need. The unholy alliance of the Church and corporate interests has to be broken before a broad-based progressive coalition can be built. That coalition will need people who "cling to guns or religion" as President Obama once put it.

Title: No Religious Extremists in the Military

Date: 2009-11-11T16:19:00.001-05:00

10/11/2009—Happy Veterans Day. Today's topic is whether members of a religion prone to violence should be permitted in our nation's military. Just two recent examples: Christian terrorist Scott Roeder told The Associated Press on Monday he plans to argue he was justified in shooting Dr. George Tiller to protect unborn children; in Pittsburgh, on August 4, George Sodini shot and killed 3 women and wounded 9 others before taking his own life. Here is an entry from his blog: "Maybe soon, I will see God and Jesus. At least that is what I was told. Eternal life does NOT depend on works. If it did, we will all be in hell. Christ paid for EVERY sin, so how can I or you be judged BY GOD for a sin when the penalty was ALREADY paid. People judge but that does not matter."The problem with Christianity is that its dogma of an afterlife with God in heaven assures its believers bliss for eternity if only they serve God to the greatest possible extreme while alive. If we don't actually keep Christians out of the military, we should at least be careful to make sure the Christians we do allow in are not tainted by Christian extremism. Actually, I'm not serious. It's just my way of putting in perspective the murders committed by Maj. Nidal Malik Hasan, a Muslim, at Ft. Hood. All religions have their violent extremists. Secularists do too, as evidenced by Mao, Stalin and Pol Pot. What should we do about it? Fortunately, the Constitution gives the answer: Nothing. The only way for a free society to combat religious hatred is by practicing freedom. Of course, there must always be vigilance and media reports suggest that in Hasan's case, the government might have had enough information to prevent this tragedy. Nevertheless, in the end, the most important thing is to treat all Americans equally regardless of race, color, national origin or religion. No special tests, no particular investigations.

Title: How Does a Hallowed Secularist Face Death?

Date: 2009-11-13T10:40:00.003-05:00

11/13/2009—Philip Roth has always struck me as a secularist, albeit, of course, one in earnest connection with Jewish identity and tradition. But he does not seem to live out of any serious exchange with the wisdom of Jewish tradition. Thus, when Roth confronts death, he must do so as any secularist would. This comes to mind in reading the review by Elaine Blair of Roth's book, *The Humbling*, in the *New York Review of Books*. As his powers wane in old age, the hero, Simon Axler, an actor, contemplates suicide, and in the end manages to kill himself, but only by imagining his own suicide as the role of Konstantin Gavrilovich in *The Seagull*. This is depressing and pathetic. How much is it caused by Roth's own secularism? As I age myself and come into contact with people in their 80's and 90's, I find a great deal of despair. Some of this is probably inevitable. But some of it may root in the foundation of humanist secularism, which takes the self as the only reality. So, when the self dies, there is nothing left to reality. Of course the people I am talking about, like Roth himself, were all trained in religious traditions: Christianity or Judaism. Nevertheless, the particular people I know are not religious, at least not any longer, and it shows in the lack of resources they have in confronting their own deaths. Would a hallowed secularism be any different? I hope that it would, because in such an orientation, the self would be a part of something larger. That something would not be God but it would have reality apart from my existence. Thus my death is not the end of everything. If "I" am all that is, my death is ultimate absurdity. But if "I" am part of a larger story, that story, which goes on without me, can give meaning to my existence.

Title: When Scientists Speak of God

Date: 2009-11-15T08:47:00.003-05:00

11/15/2009--The following is part of a draft of a chapter in my new book, Higher Law in the Public Square. This section follows a reference to the bleak worldview of Steven Weinberg, to the effect that we live in a cold indifferent universe.

When scientists do use the word God, it seems to me they do so to express an attitude toward the universe quite different from that of Weinberg. Certainly that was true of Albert Einstein in his famous comment about God playing dice with the universe. He did not mean a personal God, like a being, apart from space and time, who could and did intervene to set aside the natural order according to his will. He meant that the universe was an orderly place, with an intelligible structure, one that welcomed human investigation. Einstein may just have been wrong about quantum theory suggesting otherwise.

It is not a "fact" that the universe is a cold, indifferent place in which humans happen to be, by accident. Beings like us, thinking, loving beings, may instead be "inevitable", as Conway Morris puts it, given the natural processes we know and sufficient time. And if humanity is alone, in the sense that there is no God to talk to, then we are alone in a home well suited to us, where we are meant to be. That is not a bad place to be.

Scientists are tempted to think of the orderly structure of nature as planned. And even to think in God-like terms. Here is how the great physicist Werner Heisenberg put it, with full recognition of the pitfalls of such thinking:

"Was it utterly absurd to seek behind the ordering structures of this world a 'consciousness' whose 'intentions' were these very structures? Of course, even to put this question was an anthropomorphic lapse, since the word "consciousness" was, after all, based purely on human experience, and ought therefore to be restricted to the human realm. But in that case we would also be wrong to speak of animal consciousness, when we have a strong feeling that we can do so significantly. We sense that the meaning of 'consciousness' becomes wider and at the same time vaguer if we try to apply outside the human realm."

And why restrict this sense of fitting order to nature in a physical sense? This is how Pope Benedict, writing before becoming Pope, described the movement from the natural order to the order of natural rights:

"If 'nature' is being talked about here, then what is meant is not just a system of biological processes. ...Being is not blindly material, so that one might shape it in accordance with sheer utilitarian aims. Nature bears spirit within it, bears ethical and value and dignity, and thus at the same time constitutes the legal claim to our liberation and the standard for this."

All of this relates to the question before us, the use of the term God. God does not just mean Justice Scalia's Creator/Ruler. God consist of a family of meanings, of which that is certainly

one aspect. But just as important is a much vaguer sense of order and welcome and hope. That is also expressed in the word God. Justice O'Connor was not wrong to say that religious language can be used to express confidence in the future. She was wrong to be so dismissive of it. She was wrong to denigrate its current power. She was wrong to reduce it to Hallmark sentimentality.

Does that render God a universal symbol? No. It clearly does not include Steven Weinberg. It does not include nihilists, relativists, pure materialists, some humanists, post-modernists and on and on. But it does include many nonreligious, nonbelieving persons. It does include many formal atheists, who mean only that the Creator/Ruler God does not exist, not that the universe is alien to us.

So the word God can be used in formulations like In God We Trust, not to indicate that Justice Scalia's God exists, but that radical trust is the proper comportment of humanity toward reality.

Title: The Yale Press Decision Not to Publish the Cartoons of Muhammad

Date: 2009-11-18T08:25:00.002-05:00

11/18/2009—The November/December issue of Yale Alumni Magazine contains a depressing reminder of the decision of the Yale University Press to publish the book, *The Cartoons That Shook the World* by Jytte Klausen, without the cartoons. On one level, the decision to publish the book in the first place seems a cynical play for publicity, sales and good will in the Muslim world. If the Press was worried about fallout from publishing the cartoons, the obvious thing to do was to allow some other press to publish the work with its integrity intact. The Press now gets to have it both ways. On another level, the decision not to include the cartoons is pure cowardice. It is certainly possible that publishing the book with the cartoons would have led to violent demonstrations, even deaths. But not doing so is a particularly dramatic example of what is known in First Amendment Law as the Heckler's Veto. The law tries not insist that the speaker modify the message in the face of even a violent response. People have died in the past to defend freedom of speech and of the press. We used to believe that was worth doing. The action of the Yale Press is particularly offensive to people like me, who find value in Our Religions. The Yale Press is giving in to the worst tendencies of religion, which will only perpetuate these tendencies. We cannot reform the fundamentalist views of others, but we don't have to give in to them.

Title: The Young Don't Read the Bible

Date: 2009-11-21T07:56:00.002-05:00

11/21/2009—The title above is not a criticism, just an observation. I was very pleased a few weeks ago to receive an invitation to visit Indiana University of Pennsylvania to speak with students in a Philosophy of Religion Class that had read and was discussing my book, *Hallowed Secularism*. The course is being taught by Bill Gibson, a gifted teacher. A week ago, my wife Patt and I drove the interminable way east from Pittsburgh. (Indiana Pennsylvania must be the origin of the line, "you can't get there from here".) Some of the students had come back for a Saturday, which is way beyond the call of duty, and other faculty members graciously attended as well. We were impressed by the commitment of the university community to the shared intellectual life. The students were a delight. They seemed mostly to be nonbelievers, whether churchgoers or not. That is no surprise among the young. Sometimes people go back to the religion of their youth later in life. Bill calls this the religious lockbox syndrome of college life. What was more surprising is that most of the students seemed to have little acquaintance with the Bible, and less interest in studying it. This is both a problem for someone like me and an opportunity. It is a problem because *Hallowed Secularism* is a biblically oriented book. Though the book addresses other religions, it is primarily about the value of the Judeo-Christian tradition even when someone does not believe in God or other religious doctrines. If someone does not know the tradition, that is a very hard sell. On the other hand, the opportunity is that these students are not really hostile to the Bible, because they know so little about it. They assume the Bible is violent and backward, but it is not a passionate commitment. Most of them are not like the New Atheists, living to defeat religion. Since religion requires the continuity of a tradition, these students suggest that we may drift into secularism as a society in part out of unfamiliarity with religious sources. How does all this square with the large numbers of students engaged in activities like campus crusades for Christ? That was even the case at Indiana. According to the students in the room, a lot of the students involved in the Crusade are like them, not really religious heretofore. They knew little about Jesus and were swept along by enthusiasm for something that seemed exciting. This may mean that one can also drift into religious enthusiasm. The only solid foundation for secularism or religion is knowledge. Nothing else can last or be really healthy.

Title: A Serious Man, A Serious Movie

Date: 2009-11-23T11:28:00.001-05:00

11/23/2009—Last night, my wife Patt and I saw A Serious Man, the most recent movie by the Coen brothers. The movie is regarded as a remembrance of contemporary Judaism, which it is in part. But that is not the part of most interest on this blog. The everyman at the heart of the movie, Larry Gopnik, is a physics professor, a teacher of quantum indeterminacy. In the movie, his life seems to disintegrate. Larry seeks help, unsuccessfully, from three rabbis. But what does Larry want? Larry seems stuck between a quantum view of the universe, in which the indeterminacy that he teaches would be all the explanation for his troubles that one could have, even in principle, and the traditional, biblical view of God, in which all actions are moral causes of moral results. By this measure, his life's troubles seem way out of proportion to his failings. The irony of the movie is that at the end, Larry seems to get the linear moral universe he sought, much to his regret. This movie is a serious study in moral living. The problem it poses for Hallowed Secularism is that the Coen brothers can raise these issues only by reference to two established traditions: Judaism and physics. What is the tradition of Hallowed Secularism?

Title: Happy Thanksgiving Everyone

Date: 2009-11-25T04:35:00.001-05:00

11/25/2009—Followers of Hallowed Secularism, either the book or the blog or both, know that one of its great challenges is to become a way of life. What kind of lives, with what kinds of ceremonies and what kinds of celebrations, exist for the hallowed secularist? This is not just a question for hallowed secularists, of course. Secularism of the future will have to answer this question all over the world. And the answers are likely to differ depending on the society in which the question is posed. For me, the most important component to an answer is study and text. Secularists must spend time with greatness of spirit. That is what religious believers are able to do even without thinking about it. They have great texts, awesome ceremonies, and transformative art. Secularists lack all this and sometimes pretend they don't need any of it. One part of the future for secularism in America will be Thanksgiving. This day is one that the secularist can spend in an attitude of gratitude. Ronald Aronson has written that gratitude should be a defining attitude of secularism. Thanksgiving is already available for that as a broad social structure in which secularism fits as well as any religious tradition does. So, tomorrow, give thanks. The universe spent thirteen billion years creating us and the beautiful world that supports us. Evolution painfully turned matter into empathy and generosity over millions of years. We all awoke into a consciousness we did not earn. And then there is love, the mysterious glue that holds our worlds together. And I am grateful for the opportunity to think about the future along with all of you.

Title: The Iranian Bomb

Date: 2009-11-29T06:25:00.003-05:00

11/29/2009—As a young Jew, I did not participate in the debates, so common for American Jews, about what Israel should do with regard to the Palestinian conflict that drives so much of the Muslim-West divide in the world. It never seemed to me honorable for someone safe here in America to urge the Israelis to take risks for peace. It also seemed to me that American Judaism had lost its center and was using Israel as a substitute for religious reform. I still think both those things. But, of course, American policy is a different matter. Every American has a personal stake in that. Friday, the International Atomic Energy Agency demanded that Iran freeze operations at its formerly secret uranium plant and voiced concern about Iran's intentions. The rebuke to Iran was regarded as a serious warning because China and Russia joined in it. The Obama Administration is seeking new sanctions against Iran. While no sane person wants to see Iran with a bomb, and while sanctions might succeed in forestalling Iran's ambitions (I doubt it), some facts need to be remembered before concerns about Iran lead us to military action against Iran or to endorse military action by Israel. First, Israel has the bomb. It has never threatened its use, but it is a fact of life that Israel's foes must always consider. So why would its opponents not seek to have the same? Second, despite its bombastic rhetoric, that Israel must be wiped out, Iran has not been an aggressor nation. Its war with Iraq was instigated by Iraq. It has armed and supported Hamas and Hezbollah, but it has been scrupulous in not sending "advisers" and so forth. Israel's position is that we don't want the smoking gun to be a mushroom cloud, as the Bush Administration put it before invading Iraq, but there is not any reason to think that a nuclear Iran will attack Israel. Third, if anyone failed to notice, when the Bush Administration targeted its axis of evil, Iraq, Iran and North Korea, it did not attack the most threatening of the three, North Korea, in part because North Korea has the bomb and might have used it. Maybe the U.S. has brought on some of Iran's desire to have a bomb to deter attack.

Title: Is Islam Different?

Date: 2009-12-02T20:18:00.002-05:00

12/2/2009—Those people who worry about Islam and the future of Europe, like Christopher Caldwell in his recent book, *Reflections on the Revolution in Europe: Immigration, Islam, and the West*, or are pessimistic about the struggle with Islam, like Dexter Filkins in *The Forever War*, seem to me to assume that Islam is fundamentally different from Christianity. They assume that Islam will not be subject to the same forces of modernity that tamed religion in the West. They assume that Muslims will continue to believe in a personal God with supernatural powers when many people who are not Muslims and live in the West find such beliefs impossible. Now, why would Islam be different? I suppose people like this assume that Christianity is not as fierce as Islam. But they do not remember that Christianity fought a 200 year battle with modernity and only succumbed, and yes it did succumb, recently. Muslims living in the West are not going to deny evolution forever, as even a moderate Muslim like Tariq Ramadan either does or feels he must pretend to do. Christianity lost its power to impose its will on civil society in the West because its internal wars were so violent. One day Muslims will decide that Islam must be limited in the same way for the same reason. Muslims in the West are going to be more or less like everybody else. It is just going to take a while. The real problem in Europe is the fragility of European culture. That is a weakness in European secularism, which secularists in America so trumpet.

Title: Charles Taylor and the Future of Secularism

Date: 2009-12-05T08:22:00.002-05:00

12/5/2009--I was asked a question the other day that shocked me, how could I not have taken account of Charles Taylor, and his opus, *A Secular Age*, in writing about secularism? It shocked me because I don't think you can and I thought I had. I thought I had because I wrote a review of the book for Expositions, the magazine of the Villanova Center for Liberal Education ([Vol. 3, No 1](#)). But since most of you don't have access to it and since you have to pay to read it (don't bother), I thought I would post my opening here. It tells you enough. I found that Taylor knows nothing about secularism because he has no interest in it. He is interested in reversing the way the church contributed to bringing us to this secular age.

I began to read Charles Taylor's acclaimed work, *A Secular Age* just after I had finished writing a manuscript of my own about modern secularism—*Hallowed Secularism*. Naturally, given Professor Taylor's reputation and learning, I studied his book for help. And I learned a great deal from the book about the "main story behind secularity." (774). In other words, I learned how we in the West came to be in a secular age.

But I did not learn very much about secularism. Specifically, I learned nothing at all about how one might be secular in a secular age.

In retrospect, the reason for this is obvious. Taylor is not a secularist. He is a believing Christian. Taylor considers "secularity" (his term) a mistake that we would do well to reverse.

I know that this characterization of his position directly contradicts the stated thrust of the book, which is to examine how the "conditions of belief" in the West that moved, between the years 1500 and 2000, from a condition where almost everyone believed in God to a condition in which it is problematic to believe in God. A change in understanding that fundamental actually changes the kinds of experiences that people can have. Thus, it would not seem to be the kind of change that could be reversed. Indeed, the impossibility of traditional belief in the old way is part of what it means to live in a secular age. All this is stated in *A Secular Age*.

Nevertheless, at the end of the book, Taylor presents the reader with two possible futures for this secular age. In one, religion continues to shrink because it is not plausible, while atheism continues to grow. In the other, "we all have some sense" of the fullness of human life that is a "reflection of transcendent reality" that cannot be completely grasped within the "exclusive humanism" of the immanent frame. This leads to "conversion", "breaking out into the broader field." (768-69).

Which future will be our future? Taylor is prepared to say only this: where there is only imminence, so that “many people even have trouble understanding how a sane person could believe in God” subsequent generations will develop “a sense of living in a ‘waste land’” and many young people will begin to explore beyond immanence, perhaps to a state in which they acquire “in some fashion a sense of God.” This is the condition for which Taylor had earlier in the book borrowed Mikhail Epstein’s term: “‘minimal religion’” (533).

So, these are our choices for the future. Conversion to what amounts to orthodox biblical or theistic belief or an atheist waste land so bereft of hope for deep human fulfillment that our descendants will be driven by despair to take up the religious quest again. There is no doubt that Taylor means religious conversion quite literally since he calls the last chapter of the book “Conversions” and describes there experiences such as Walker Percy’s conversion to Catholicism. Nor is there any reason to doubt Taylor’s sincerity when he calls secularity a waste land. He really means it.

Why are these stark alternatives the only futures that Taylor allows? There is a quite specific reason for this. Though he puts it as a question, Taylor does not believe that an “intermediate position” is viable. (606) The intermediate position he is rejecting is one in which the “phenomenology of universalism—the sense of breaking out of an earlier space and acceding to a higher one, the sense of liberation” that many people experience despite the secular age is ultimately frustrated by an ontology of imminence. (609) Secularists cannot live deeply because they live immanently. And the only alternative ontology Taylor acknowledges is “belief in some transcendent source or power” that “for many people in our Western culture” means “the choice...whether to believe in God. (600). It’s God or the waste land.

In Taylor’s terms, the manuscript I wrote was an attempt to describe a viable intermediate position that seeks to avoid just these unacceptable alternatives of traditional belief in God or empty secularism. My book tries to portray a secularist way of life that remains in the neighborhood of the fulfillment of human possibility promised by traditional religion while rejecting traditional religious dogmas, including the existence of the biblical God.

Title: Are Religious Politics "Undemocratic"?

Date: 2009-12-08T08:22:00.002-05:00

12/8/2009—A few days ago, Sarah Posner, author of *God's Profit: Faith, Fraud and the Republican Crusade for Values Voters* and consistent critic of the religious right, wrote an article for *Religion Dispatches* in which she chided the Democratic Party for its incessant pursuit of religious voters, *The Fretting About Whether Democrats Are Friendly to Religion*. She was referring to recent polls that suggest that Democrats are viewed, again, as unfriendly to religion. According to Posner, this is not something the Party should worry about because, among other things, there is no reason to be friendly to policy positions you don't agree with. This is a good point. If the only way to be seen as friendly to religion is to cave in on policies, like abortion and gay rights, that the Democratic Party has been committed to, then the Party is obviously better off being seen as unfriendly. You don't want to be anti-religion unnecessarily, but where necessary, there is a sense that you have to be. But there was an undercurrent to the piece that was making a different point. Posner stated that the Democratic Party's giving in to the Catholic Bishops on the Stupak Amendment in the House was "undemocratic". But in what sense could that be true? Posner points out that only a minority of Catholics, let alone every else, supported the Church stand on the place of abortion in healthcare reform. That is true, but irrelevant to the politics of the matter. If the NRA had controlled a bloc of votes in the House debate on healthcare, and had been willing to vote for the final bill, there would have been a rider on gun control. What happened with abortion in the House was the essence of political horse trading. It happened because the vote on healthcare was going to be so close. I'm not saying here that the Stupak Amendment was good policy (I think it is) but there is nothing undemocratic about the way it came about. Liberals are always treating religious motivation as somehow illegitimate in political debate. That really has to stop. In a democracy, you don't get to tell your opponents the permissible reasons for their positions. That is undemocratic. You have to debate the policies.

Title: The New Weirdness

Date: 2009-12-10T20:38:00.001-05:00

12/10/2009—Yesterday the Pew Forum on Religion and Public Life reported a poll showing that Americans now freely mix all sorts of religious beliefs. (Many Americans Mix Multiple Faiths). Around a quarter of the population say they believe in reincarnation and astrology and 30% “have felt in touch with someone who has already died.” Perhaps most surprising is the report in the poll of intense religious experiences, despite rapid secularization in American life. In 1962, in answer to Gallup poll question whether the subject has ever had a religious or mystical experience, defined as a “moment of sudden religious insight or awakening”, 78% answered “no” and only 22% answered “yes”. Yet, when the Pew organization repeated the question in December 2009, nearly half of Americans—49%--answered “yes”. That is a remarkable change. Even among those unaffiliated with any religion, the “yes” response was 30%. The New Atheists, people like Christopher Hitchens, would consider all of this to represent a decline in rationality. I am not certain I would put it that way. I think what is happening is that with the decline in authoritative religious institutions, people are freer to experiment religiously. Unfortunately, they are also freer to latch on to what used to be called “enthusiasms”. Perhaps there is some truth in the warning attributed to G.K. Chesterton: “When people stop believing in God, they don't believe in nothing — they believe in anything.” In any event, it is going to be hard to blame this on organized religion. I am sure that ministers, priests, rabbis and imams were horrified at the report. The report shows that religion is not the source of irrationality in American life. But I'm not sure what is.

Title: Time to Buy an American Car

Date: 2009-12-13T09:05:00.005-05:00

12/13/2009—Want to see well-paying jobs, good benefits, widespread access to healthcare? Tired of Democratic Party politicians who promise these things and then get in bed with corporate America? Try buying an American car. I am really tired of seeing so-called progressives berate Washington and then drive off in a Toyota or Honda. Sure, some of these cars are assembled in the US. And some American cars are actually manufactured elsewhere. But generally there is substantially less American content in foreign cars, even those assembled here. And those cars, because they are built with non-union labor, pay much less well than the union jobs at Ford, GM and Chrysler. As Alan Tonelson argues in the January 2010 Harper's, you can't have prosperity in America without a healthy manufacturing sector. While there are good reasons why the government should not legislate buy American requirements, we consumers can simply buy American and help return prosperity to our country. The love affair with foreign products is in large part snobbishness. It is true that the cheapest cars are foreign. So, there you get a pass. But, as the new Chevrolet ads point out, in the mid market, American cars are just as reliable, get just as good mileage and cost the same. And they pay good wages and grant decent benefits. People ask all the time, how can we have a decent economy without the ruthlessness of capitalism? Start by being not quite such a ruthless consumer. Do for manufacturing what so many environmentalists do for food: buy local.

Title: The Fight for Chanukah

Date: 2009-12-16T12:58:00.003-05:00

12/16/2009—Despite our overheated religious politics, this year we have apparently avoided a new round of “Merry Christmas” wars. Either salespeople in stores are saying Merry Christmas or Christian activists have forgotten to be offended. In the place of Merry Christmas, this year we have the Chanukah wars. Chanukah, which began last Friday night, celebrates the victory of the Maccabees over Antiochus IV and the Seleucid Empire in 165 B.C.E. The Hasmonean Kings, who were the heirs of this successful struggle, did not prove to be better rulers of Israel. Ironically they oppressed the rabbis whose heirs would later create the rabbinic Judaism we know today. Eventually, members of the Hasmonean Court invited in the Romans. The fight over Chanukah concerns the nature of the Maccabean struggle. Naturally, it was Christopher Hitchens who launched the attack in Slate on December 3. (Bah Hanukah). The struggle was one of Hellenistic modernizers versus the Taliban and it is ridiculous for modern Jews to side with the Taliban. David Brooks was a little more subtle, actually quite good, on 12/11/2009 in the New York Times) Then, Rabbi Michael Lerner sent out his response, sort of defending Chanukah (although not the traditional view). From Lerner’s point of view, the Maccabees represented the peasants against the imperialists. I don’t think this kind of antiquarianism works. Their time is not our time. My take on all this: Chanukah is no celebration of liberty, religious or otherwise. The Greeks did not allow the celebration of traditional Jewish rites. But those who revolted had no intention of allowing any fellow Jews a religious choice.

Title: Outrageous Breach of Wall of Separation as Rabbis Urge Lieberman to Support Health Care Reform

Date: 2009-12-18T14:16:00.001-05:00

12/18/2009—I'm only kidding with that title. But why am I not going to see secularists upset over the involvement by these religious leaders in the healthcare fight? What happened is that 29 Connecticut rabbis wrote to Senator Joe Lieberman to urge him to reconsider his position on health care reform. Rabbi Carl Astor was quoted in the story in The Day that "taking care of those in need is...one of the basic tenets...of the Jewish religion" and that Lieberman is "an observant Jew." Now, how is this any different from the role of the Catholic Bishops in trying to shape the health care bill in the House? It isn't. But then we heard about how religious leaders were imposing their religion on the rest of us in violation of the separation of church and state. We won't hear a word about that in this instance. The difference of course is that separation complaints come from the left and the left, including me, wants Lieberman to support the bill in the Senate. We don't care where the pressure comes from as long as it works. Religion is one of the background commitments that motivate political behavior. It is not illegitimate in a democracy. The democratic requirement is simply that political leaders are upfront about their commitments so the voters know ahead of time.

Title: Does a Hallowed Secularist Send Chanukah Gifts?

Date: 2009-12-20T07:07:00.002-05:00

12/20/2009—This blog is primarily dedicated to the actual way-of-life changes that occur when a person ceases to be a member of the organized religions. The Christmas season presents an obvious issue because Christmas is completely intrusive and beautifully attractive. The whole culture gives presents. And who would not want to be part of the Hallmark family moments that are portrayed? This same kind of question confronts minority religious believers, of course, and I don't know how they handle it. Judaism, for example, ingeniously answered this problem years ago, at least in America, by elevating a minor holiday, Chanukah, to Christmas-like significance. Chanukah is not a holiday that anyone would know about if it were not for Christmas. Jews would not celebrate it anymore than they celebrate Purim now. Many cultures celebrate the winter solstice. The timing of Christmas itself is probably the result of just such cultural borrowing. And many involve lights. That is partly why Christmas is so attractive. There are two obvious choices for the hallowed secularist. One is to ignore the holidays. But that would mean weakening connections with the immense believing world. The second is to join in from a distance, for example giving gifts to believers in accordance with their beliefs. And singing their hymns. This second path is complicated by intergenerational family ties. For a long time to come, the family of the hallowed secularist will remain at least formally religious. This will even include grown children and grandchildren. The hallowed secularist always wants the influence of religion to remain strong. It is good to be religious when you are young. You can think about the implications of belief later. So the temptation will be to join in with the religious celebrations. But at a certain point, one is then no longer forging the necessary secular path to the future.

Title: As Christmas Goes, So Goes the Nation

Date: 2009-12-27T06:59:00.002-05:00

12/27/2009—The statistics say that America is only 76% Christian. But you could not prove it by Christmas, which occupies an absolute cultural centrality. I spent Christmas in upstate New York, which is still relatively uniform in race and religion: white Christian. But I don't think it would have mattered all that much where you looked. You see the grip of Christianity on American culture slipping in many other ways: national acceptance of gambling and alcohol (Protestant decline), divorce (Catholic decline), commerce and entertainment on Sunday (decline of both) and gay marriage (decline of both). Pentecost has no cultural weight. Easter is in noticeable decline. But not Christmas. Part of the reason is capitalism. The gift-giving orgy cannot be allowed to die because retail health currently depends on it. So the huge American advertising machine, complete with holiday music, movies, media stories and iconic images, the commercial/entertainment complex, is now keeping Christmas healthy. You may have noticed that almost all the Christmas songs played are about "Christmas" and not about Christ. And they really are about family and relationships and not about the birth of Christianity (Elvis' "Blue Christmas"). Even where the Christian myth is invoked, the birth of a child returns to its mythic origins rather than its theologically Christian meaning ("Do you hear what I hear?"). Part of the reason is biology. There is a reason that the early Church chose December 25 to celebrate as Christmas. Many cultures celebrate the winter solstice. Many cultures take a break as winter settles in. The six week period from Thanksgiving through the New Year is a natural holiday season in the northern hemisphere. Part of the reason for the health of Christmas is the presence of Thanksgiving and the New Year, religiously neutral holidays that form the bookends of Christmas and support a holiday spirit during the whole season. Anyway, as we continue to think about what an increasingly secular America will be like, we should assume that Christmas will continue to play an enormous, even dominant, part in the culture. On the other hand, the American Christmas will continue to secularize. Christmas will become another American holiday rather than a specifically Christian one.

Title: Predictions for the Next Decade

Date: 2009-12-31T09:05:00.001-05:00

12/31/2009—Happy New Year to all. And how will the world look in 2020? First the easy one. Many more states will be recognizing gay marriage. Next easy one. Many more people will be secular and fewer people will believe in God in any traditional sense. In fact, this may be the secular decade in America and by 2020 secularists may rival believers (actually, that is my prediction for 2030). Economic predictions: the American economy will prove much more resilient than it looks now and the Chinese economy much less so. I still do not believe that long-term economic growth is possible without democracy, the rule of law and individual liberty. Political predictions: a more globalized world including genuine world public opinion for the first time and the beginnings of world governing institutions. Environmental predictions: this will be the decade that global warming skepticism dies. The continuing climb in world temperatures see to that. Religion predictions: the major religions will begin to come to terms with science and gay rights. Conflict predictions: I do not see an end to the Israeli/Palestinian conflict, unfortunately, but I do foresee the decline of militant Islam. The Muslim world will grow tired of it. These are my predictions. Try your own.



POSTS:
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Title: Sarah Palin as Herbert Hoover

Date: 2010-01-03T07:34:00.002-05:00

1/3/2010—The recent review of Sarah Palin's book, *Going Rouge*, in the *New York Review of Books*, *Sarah and Her Tribe*, by Jonathan Raban, makes the point that "Palin's core message is, as it always has been, about fiscal policy." When everything is said and done, "[t]he national economy is a straightforward macrocosm of the domestic economy of the average god-fearing family of four. What's good for the family is good for the nation, and vice versa; and the idea that the family should spend its way out of recession is an affront to common sense, conservative or otherwise." The anger against President Barack Obama is thus said to be about the federal debt. I have heard a lot of loose talk about "the so-called stimulus" so maybe this account is true. And if it is, there is a lot of irony in it. Deficit spending to avert a catastrophic drop in demand is an example of Keynesian economics, but it was the Republican Party that Palin and her friends put in power who turned a 2000 federal surplus into a deficit during good times, which is not what Keynes said to do. Nevertheless, it is hard to believe that we are actually replaying the debate FDR had to confront in 1932. What was generally recommended at the beginning of the Depression was that the federal government should cut spending to balance the federal budget. In fact, FDR ran for President on essentially that platform. While economists debate whether it was New Deal spending or WWII spending that ended the Depression, loose spending certainly helped. I don't know of many economists who believe that cutting federal spending in 1932 would have been a good idea on either humanitarian or economic grounds. Anyway if it is really true that the debate today is between gold-standard Republicans and Keynesian Democrats, then Democrats should simply point out that Republican policies last time we had a drastic drop in demand led to the Great Depression. This time the Democrats were in power and averted a Depression. That should have a pretty good political resonance by the time the 2010 elections come around. The more fundamental question is, why is there such a close connection between religion and capitalism? Palin's support is pretty religious. Raban suggests that her run for mayor of Wasilla was fueled by strong Christian identification against John Stein, who not only had a Jewish-sounding name, but was in fact a lapsed Lutheran and thus not a church-goer. So, we have with Palin the continuing saga of Christians-supporting-capitalism. Why? Karl Barth was a Christian socialist. What happened to that tradition?

Title: Is the World Real?

Date: 2010-01-05T19:01:00.002-05:00

1/5/2009—Defenders of religion, even atheists like myself, often face the criticism that religion is unreal and thus untrue. God does not exist and neither do any other supernatural entities. For that matter, spiritual experiences in general are derided as purely subjective. A strictly materialist account of the world is fostered by some of these critics. This is said to be a scientific attitude. Imagine my amazement, then, in learning from Manjit Kumar's book, *Quantum: Einstein, Bohr and the Great Debate about the Nature of Reality*, just what the implications were in the disagreement over the meaning of quantum physics between Albert Einstein and Niels Bohr in the 1920's. Bohr maintained that at the subatomic level, roughly the level of electrons, entities could not be said to exist until they were measured. In contrast, Einstein maintained the classical view that there existed an observer-independent reality, whether we could have direct access to it or not. Bohr's position is not so different from wondering whether the world disappears whenever you go to sleep or turn your back. And one can well understand Einstein's hesitancy. But, since all matter is made up of subatomic particles, what does it mean to say that they do not exist until they are measured? It raises the question of what is real, and whether the word "real" itself has any meaning at all. What is materialism in such a world?

Title: The 2010 Annual Conference on Christian Legal Thought

Date: 2010-01-08T17:43:00.001-05:00

1/8/2010—While in New Orleans for the Association of American Law Schools convention, I attended the 2010 Annual Conference on Christian Legal Thought that was going on across the street. I've attended these meetings before. As always, I was amazed. Secularists would imagine that this is a right-wing organization. In some senses, this is true. Everyone in the room opposes abortion and, from what I could tell, gay marriage as well. Some of the people there are global warming skeptics, although not all. And there is a pervasive distrust of government power and President Barack Obama's cult of personality. On the other hand, I saw no cheerleading for capitalism. I also saw a pervasive concern for social justice in general and the poor in particular. One example: Kevin Outterson of B.U. Law School spoke on Christian Fellowship at school. In his bio, it turns out his work is about disparity in health care. Everyone there is concerned for the rights of the oppressed. That is actually kind of rare among law professors. Another striking point among a number of speakers was a concern for democratic citizenship and a law school education model that goes beyond skills to teaching a concern for justice. This was refreshing after hearing the panicked reaction to the recession among deans and law professors at the AALS. There are a lot of people here ready to abandon justice in order to turn out law-firm-ready lawyers. But that is not true of the Christian professors. The final speaker was, Lynne Marie Kohm of Regent Law School, who, noting recent stories about the decline in happiness among American women, argued that Christianity needs to recommit itself to gender equality but also that secular feminism has shown itself unable to provide the wherewithal for lives of genuine fulfillment among women. I have to add a personal reaction. The group is thoughtful, friendly and open. A secularist is welcome. They really are a good advertisement for Jesus.

Title: The European Court of Human Rights

Date: 2010-01-12T11:30:00.002-05:00

1/12/2010—A panel of the last session at the AALS convention this year concerned the freedom of religion and belief under Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The panelists described a court unwilling to defend religious rights. That was surprising to me. Equally surprising was the suggestion that the court has viewed Islam as essentially incompatible with democracy and has allowed governments to suppress religious dress, as in the French headscarf case. It is not the language of Article 9 that is at fault, but the apparent willingness of the court to accommodate the claimed needs of government at the expense of religious liberty. It is true that the United States Supreme Court has sometimes acted the same way. In *Goldman v. Weinberger* (1986), the Court held that the Air Force could keep an ordained rabbi from wearing his yarmulke while on duty. And, given *Employment Division v. Smith* (1990), religious objectors now have almost no constitutional religious rights versus generally applicable regulations. Nevertheless, American society is such that religious rights are usually protected despite the Supreme Court. If the Court has not done all it should, the American people have done more. That is not as true in Europe. It is inconceivable that America would deprive Muslims of the right to choose headwear in schools. The panel conversation reminded me of a dark time in American life when free speech was denied to Communists on the ground that they would deny free speech rights to others were they to achieve political power. We have learned that human rights are best protected when they are extended to all and not just to those whom we view as “deserving” them.

Title: Can Science Explain Religion?

Date: 2010-01-14T16:40:00.001-05:00

1/14/2010—There are a lot of attempts today to “explain” religion scientifically. For instance, H. Allen Orr asks this very question in reviewing *The Evolution of God* by Robert Wright, in the *New York Review of Books*. Another example is Judith Shulevitz’ review in the *New York Times* of *The Faith Instinct* by Nicholas Wade. I will have more to say about both of these reviews, and books, but first I want to mention a distinction made by Shulevitz. She writes that Wade “does not agree with the cognitive anthropologist Pascal Boyer that religion is a byproduct of our overactive brains and their need to attribute meaning and intention to a random world.” Now I am not sure that this is what Boyer argues. I am now reading *Religion Explained* (2001) to find out. The question I would ask here is simply, from what vantage point would one be able to describe the world as “random”? How would one show that there is not “meaning and intention” in it? And particularly how would one be able to see and show that if our brains are wired not to see it? I have this problem with much so-called explanation of religion. I always want to say that religion endures perhaps because in some way it is true. (I’m not sure that Boyer actually disagrees with that. Early in his book he points out that “any organism that was prone to such delusions would not survive long”. Maybe his thinking is more sophisticated than that of Shulevitz.)

Title: Edward Schillebeeckx, 1914-2009

Date: 2010-01-17T14:02:00.003-05:00

1/17/2010—Read Peter Steinfels' obituary of Edward Schillebeeckx today in the New York Times. Since he died on December 23, it is not clear why it appeared today, but read it anyway. Schillebeeckx was one of the new breed of theologians who thought and wrote after WWII. He was very influential for the Dutch bishops during the second Vatican Council that so reformed the Catholic Church. Later he was investigated for heresy, but nothing came of it. Schillebeeckx is perhaps best known for his emphasis on the experiences of the followers of Jesus, rather than on dogma about the events of Jesus' life and death. For example, rather than write about the resurrection, he wrote about the conversion experience of Jesus' followers. This emphasis caused his critics to ask whether he was denying that Jesus actually rose from the dead. The importance of Schillebeeckx for us is that he is a direction that makes Christianity, or at least a form of Christianity, possible for people otherwise cut off from the tradition. Many of us cannot believe in miracles like the resurrection. But all of us have known of conversion experiences. The transcendent is miraculous but it is not supernatural.

Title: Dances with Wolves Meets The Matrix

Date: 2010-01-19T15:41:00.002-05:00

1/19/2010—Taking a break from the secular/religious theme, two points today. First, could Avatar really have won a Golden Globe for best picture? It is the dumbest movie I believe I have ever seen. It takes no imagination to see Dances with Wolves in it, but did the aliens actually have to make those Hollywood Indian sounds? And as for the Matrix, it was bad enough that Avatar took the consciousness-into-alternate reality with your body back home theme, but did the human occupied weapon have to look exactly the same as in Matrix III? Beautiful 3D, but not best picture. Point number 2 is not related. It concerns the constitutionality of individual mandates to buy health insurance currently in the Healthcare Reform legislation. Assuming the Mass. election today does not doom the bill, critics have been making noises about challenging the constitutionality of such a requirement. Now, as a constitutional argument, this claim is not very strong. Congress has already forbade a wheat farmer from growing wheat in order to force him to buy wheat in the national market for his family's consumption. (*Wickard v. Filburn*). If that is constitutional, I presume this is as well. But what is breathtaking in its shamelessness is the context of this challenge. Republicans and others on the right were so insistent that a single payer public plan was "socialism" that this reasonable approach never even saw the light of day for debate. Instead, conservatives insisted that healthcare reform retain the private insurer model. But the government provision model is clearly constitutional because it relies on government benefits and taxes. Having forced a private care structure on those wishing reform, the very same critics now claim that the private format renders a requirement of mandatory coverage unconstitutional. Talk about no win. You'd almost think that these critics would use any argument just to prevent universal healthcare coverage.

Title: What's religion got to do with it?

Date: 2010-01-21T16:39:00.003-05:00

1/21//2010—The L.A. Times reported today on testimony in the trial challenging Proposition 8 in California, the state initiative that reimposed a ban on gay marriage, showing that Catholic and Mormon church leaders aided the Proposition 8 campaign. This evidence is undoubtedly largely true, but so what? I suppose that such aid might violate laws against tax-exempt organizations engaging in politics (although most such bans pertain to partisan politics) but this lawsuit is not about that. How could religious support undermine the vote for the initiative? For the record, I am a strong supporter of gay marriage. But I have never followed the logic of this attack. Religious opposition to gay marriage certainly may represent religious bigotry, but it cannot be unconstitutional for several reasons. For one thing, it would be rare for the motivations behind a law passed by a legislature to render a law unconstitutional. It would be nearly impossible for motivation alone to do so in the case of a voter-initiative. In addition, no court has ever held that religious motivation by itself violates the Establishment Clause. Religious motivation for allowing a religious act, such as prayer, can be unconstitutional, but not religious motivations involving a topic not inherently religious. Think how difficult it would be to separate religious motivations for a law from other motivations such that a repeal of the death penalty might be constitutional in one State and unconstitutional in another depending on why it was done. Actually I think there are deeper reasons for not thinking of the separation of church and state that way. Most people believe that government should not behave immorally. People who opposed the invasion of Iraq might have believed that the war would have negative consequences, but many of them thought primarily that the war was unjust. What kind of motivation is that? Religious believers may get their morality from religion, but they certainly do think that immoral behavior should be avoided. So do secularists, who presumably get their moral judgments elsewhere, but who also believe government immorality should be avoided. How can motivations for policy be separated this way?

1/23/2010--The advantage of a blog is that I can pontificate here without knowing anything. I have not read the opinion in Citizens United and yet I will still write about it here. First, I'm not too worried about the decision since I'm a pretty big free speech guy. The Obama campaign showed that the left could raise money too. Rich people already could spend money on politics and big corporations are not likely to alienate customers by getting directly political. Second, the biggest corruption in politics is not money but lying in special interest commercials, as in the swift boat tactics against Kerry in 2004. We should now remove all remaining contribution and spending limits so that candidates can be required by the voters to control all the expenditures made on their behalf. Bush could legitimately claim to have no say in how the funds expended to attack Kerry were used because they were independent expenditures. That needs to end. We need accountability in political speech. Finally, Citizens United should expose once and for all the hypocrisy of conservative jurisprudence. I believe that the Constitution changes with the times. But Justice Scalia says he does not believe that. Therefore the question for him should not have been whether corporations ought to have constitutional rights, but whether they did have such rights when the Constitution was written. The answer to that question is obviously no. Throughout the 19th century and certainly before, corporations were regarded as creatures of the State. They could not have had rights against the state in the same sense as human beings had rights. The framers of the Constitution would not have thought that the relevant terms, such as "person" or "free speech, applied to corporations. If conservatives wanted to change the Constitution, they should have amended it, rather than engaging in judicial activism. If they like this decision, they have abandoned originalism and adopted liberal jurisprudence.

Title: What About Pedro?

Date: 2010-01-25T19:46:00.001-05:00

1/25/2010—I saw Nancy Meyers' film, *It's Complicated*, on Saturday night. I admit I liked it. It was only after I thought about the movie that I hated it. The movie is evil. In the film, Meryl Streep has an affair with her ex, Alec Baldwin, who had left her 10 years before for a much younger woman. That resulting marriage is not working out. Baldwin and his wife have a 5-year old, Pedro, and she wants a baby. The affair between Streep and Baldwin will cause the end of his marriage. How is this a comedy? Meyers works hard to keep us from considering that Streep is aiding Baldwin in breaking up a second marriage that will harm Pedro as much as the earlier divorce harmed the three children she and Baldwin reared. No one has sympathy for Pedro because he is sort of hyper active and, in a weird contrivance, he is not Baldwin's biological child. The new wife apparently broke up Streep's marriage and then went off with another man, got pregnant, and then returned to Baldwin, who in a fit of nobility took her back. All this is supposed to show us that the woman is strange. All it really does is prove how much Pedro needs a father. The reason a basically decent woman like Streep's character does not have to think about the effect of her actions on Pedro is that the movie is secular in the worse sense. Streep knows that the affair is wrong, but her moral sense is temporarily deranged. If she had gone to a rabbi or minister, as Woody Allen would have, she would have been told to think of Pedro. Instead, she goes to see a therapist and is told to seek self-discovery, which is the highest goal of a certain form of secularism. This is why I hate the popular forms of secularism and think we need to keep in contact with our religious traditions, despite their negative aspects. At least they maintain the necessity of taking ourselves seriously in a moral sense.

Title: What Secular Life Will Look Like

Date: 2010-01-28T17:38:00.001-05:00

1/28/2010—Last night I was happy to miss the sell-out on healthcare, otherwise known as the State of the Union Address (Someone should tell the Democrats to push through the Senate bill in the House where you only need 50% plus one). Instead, I attended the first lecture of the Allegheny YMCA Lecture Series in the YMCA on the Northside. The series has been underwritten by the Pittsburgh Steelers, among others. We are hoping to do 6 lectures a year, along the lines of the 92nd street YMCA series in NYC. Bill Pricener, the Director, was the MC and Brian O'Neill of the Post-Gazette spoke on his new book, *The Paris of Appalachia*, which is about Pittsburgh. About 60 people showed up and it was an experience in community building. I have been wondering what secular life will offer to replace religious life. It is true that the YMCA is a religious organization, but their slogan—body, mind, spirit—is one that any secularist could embrace. We are going to need new social forms instead of the churches. There used to be more such social groups. America has become more individualistic over the years and that is a trend that may hamstring secularism if social solidarity is not instilled in other ways.

Title: Pascal Boyer's Explanation of Religion

Date: 2010-01-29T20:51:00.002-05:00

1/29/2010—I am working my way through Boyer's 2001 book, *Religion Explained*. I cannot figure out, however, whether his evolutionary brain approach can explain anything. For example, Boyer shows that we can only have certain kinds of religious concepts because of the way our brains work. Undoubtedly this is true. If we were lizards, our God would have the qualities of a lizard. It must be true, but so what? I have heard from others that Boyer makes a different claim. The claim is that because our brains work a certain way, we are fooled, so to speak into having religious concepts. (By religious, Boyer means supernatural). This seems similar to the statement, "you feel love for your daughter for evolutionary reasons". Certainly that is true. Human beings would not have survived without such feelings. But what effect is this supposed to have on me? People who make such statements seem to think that they should change the way we feel about our children. But, of course, if the statement were altogether true, then nothing said to me could change anything about the way I feel, anymore than knowing about digestion keeps me from getting hungry. If knowing natural history could alter love, then love would by definition not be just a matter of biology. Boyer is very good at debunking the usual accounts of religion. He says in answer to the claim that we invent religion to avoid thinking about death, he writes, "The common...explanation—people fear death, and religion makes them believe that it is not the end—is certainly insufficient [to explain religion] because the human mind does not produce adequate comforting delusions against all situations of stress or fear. Indeed, any organism that was prone to such delusions would not long survive." 21. I have left out the basic question about equating religion with the supernatural. It would presumably come as a surprise to Rabbi Mordecai Kaplan, the founder of Reconstructionist Judaism. Yet, there is something to what Boyer says. How many religions lack the supernatural altogether?

Title: The Invention of Religion

Date: 2010-01-31T22:21:00.002-05:00

1/31/2010—in the sharp and funny movie based on a world in which only one person can say things that are not true, *The Invention of Lying*, Ricky Gervais invents bank theft and fiction before he invents religion. Nevertheless, he does invent heaven, hell and God on the way to comforting his dying mother who is terrified of death. The results are funny precisely because everyone takes the message in a way opposite from what Gervais intends. For example, we see a character who had been getting out of his shell, decide to drink beer and do nothing until death because bliss then is permanent. The movie's view of the source and even intention of religion are echoed by the feelings of some atheists. Religion is an opiate for the masses too stupid to face life as it is. A false comfort. Even Marx said so. But there are numerous problems with this view, at least insofar as it is a critique of religion in general. For one thing, as Pascal Boyer points out, embracing fantasy solace is not consonant with a species that evolved. Facing facts is usually preferred by survival. In addition, there is not a direct connection between ancient religion and personal survival after death. Abraham is not promised anything like heaven, for example. Religion is more complex than *The Invention of Lying* suggests.

Title: Walker Percy on Non-Believers and Believers

Date: 2010-02-02T18:59:00.003-05:00

2/2/2010—In his 1980 novel, *The Second Coming*, Walker Percy creates the character Will Barrett, a successful widower, whom one observer aptly described as “trapped in...a sort of living death” at the beginning of the novel. At one point in the novel he writes a strange pseudo-suicide note in which he writes about religious believers and nonbelievers. He does not care at all for believers: “if the good news is true, why [is] the proclamation itself such a weary used-up thing?” 219. But unbelievers are even worse. The unbeliever is “crazy because he finds himself born into a world of endless wonder, having no notion how he got here.... Not once in his entire life does it cross his mind to say to himself that his situation is preposterous, that an explanation is due him... .” For such a person it is all “boredom and... farce”. 220. Percy was one who felt the weight of religious doubt and of belief for that matter. Barrett concludes on this note: “I am surrounded by two classes of maniacs. The first are believers, who think they know the reason why we find ourselves in this ludicrous predicament yet act for all the world as if they don’t. The second are the unbelievers, who don’t know the reason and don’t care if they don’t.” Secularism in America just does not think about such matters, which are the perennial matters that have occupied humankind. I can hear the response to Percy: You just live and then you die. What is the big deal? The answer is, we are the big deal. Our lives are the big deal. Even though we don’t believe in God, we still must ask what all this is about.

Title: So, Christopher Hitchens is a Hallowed Secularist

Date: 2010-02-05T07:15:00.003-05:00

2/5/2010—The religious world is abuzz over the interview between Marilyn Sewell, well-known religious liberal, and Christopher Hitchens, the well-known atheist popularizer. (interview site here). In the interview, Hitchens speaks of “the numinous” and the feeling of awe when confronted, for example, by the grandeur of nature. But, then, surprisingly, Hitchens acknowledged that “everybody has had the experience at some point when they feel that there’s more to life than just matter.” Eric Reitan wrote about the interview in religion dispatches in terms you might expect, “religious in spite of himself?” Reitan makes the intelligent point that religious institutions and religious thought are where human beings mostly encounter and think about just what the experiences Hitchens acknowledges mean. So, Hitchens sounds silly bashing those institutions. For all the noise Hitchens makes about literature and art being the place that nourishes these feelings, houses of worship are where they occur for most people and where they are sustained for almost everyone. If you haven’t noticed, secularists rarely acknowledge and seek out anything like deeper meaning in life. But I would put Hitchens’ error at a different point. Why does he insist on the dualism of matter and spirit? This is a reflection of a longstanding Christian heresy. The orthodox view is not dualistic, but insists that the incarnation brings the godhead into matter. Thus there is no need to assert, as Hitchens does, that there is “more to life than just matter.” There isn’t. But there is more to matter than Hitchens dreams. It is important to finally get this right. There is nothing more than matter in reality. How could there be? But as the concept of emergence in physics suggests, reality is more than the sum of its parts. Consciousness is nothing more than wiring in the brain, but there is nothing in the wiring that really explains consciousness. At the subatomic level matter disappears into indeterminate quantum particles and waves. So, at the highest level, why might matter not coalesce into truth, beauty and justice? The problem with Hitchens is not that he is a materialist, but that he is an incomplete materialist. That is why he imagines more of a conflict with religion than there needs to be.

Title: The Crime of John Yoo

Date: 2010-02-07T08:49:00.002-05:00

Not a tragedy of course—many people have been without power the last two days, me included—but causing a delay in seeing my letter about John Yoo in today's book review section. Here it is [online](#).

The editors softened the letter by omitting my attack on legal academia, which has accepted Yoo without any investigation of actions such as the torture memo, which was written by then Justice Department lawyer John Yoo and signed by then Assistant Attorney Jay Bybee. The memo constituted a formal legal opinion of the Office of Legal Counsel of the Department of Justice. I state in my letter that Yoo may be a war criminal for knowingly misstating the law in order to promote actions that were in violation of the law of war and international law.

I wish to respond here briefly to the criticism that I am merely pointing to a difference of opinion on legal matters. Yoo cannot be guilty of a crime for simply giving his opinion of the law.

This last statement is correct. But that is not the allegation against Yoo. To illustrate this, consider the introduction to the last part of the memo, Part V: "In Part V, we discuss whether Section 2340A may be unconstitutional if applied to interrogations undertaken of enemy combatants pursuant to the President's Commander-in-Chief powers. We find that in the circumstances of the current war against al Qaeda and its allies, prosecution under Section 2340A may be barred because enforcement of the statute would represent an unconstitutional infringement of the President's authority to conduct war. In Part VI, we discuss defenses to an allegation that an interrogation method might violate the statute. We conclude that, under the current circumstances, necessity or self-defense may justify interrogation methods that might violate Section 2340A." [[Full text of memo here](#)].

Yoo's job was to state the law as it then existed. That does not mean to argue for a new interpretation of the law that Yoo genuinely believed was what the law was meant to be. It does not even mean predicting what a new Supreme Court opinion might hold. Yoo's job was the equivalent of that of a lower federal court following existing precedent.

Thus the question is whether in 2002, when the memo was written, a lower federal court would, or even might, have held unconstitutional, in a prosecution of persons accused of torture, a legislative limit on the President's authority to order torture or would or even might have held that torture of enemy combatants constitutes self-defense or necessity as a defense to such a prosecution.

The simple answer to this question is that no federal court would have so held in 2002. Even the use of the weasel word "may" in the memo seems to me to constitute knowing misstatement of the law because there was no real possibility of such a holding. Since Yoo was counseling the government to violate the law of war, war criminal seems the correct designation for him. [For further discussion of the torture memo in the context of war crimes, see the [Jurist op-ed](#) by University of Maine law professor James Friedman]

Title: Politics is not theology

Date: 2010-02-09T08:57:00.001-05:00

2/9/2010—a CNN story by John Blake caught my eye (How Obama's favorite theologian shaped his first year in office). The story attempts to link President Obama's policies and rhetoric to the thinking of Reinhold Niebuhr. Obama had once called Niebuhr his "favorite philosopher" and Blake asked several fans of Niebuhr, including his great-nephew Gustav Niebuhr, who is director of the Religion and Society Program at Syracuse University to evaluate Obama's first year from that perspective. The verdict—"like his great-uncle, avoids moral absolutes in his speeches: The U.S. is not always right, and its enemies are not always evil." Sorry, this sort of thing does not work. First of all, once you call Niebuhr a philosopher, you have already missed the point. Wouldn't Niebuhr have thought of himself as a theologian? Also, while it is true that Niebuhr became more pragmatic sounding during WWII and afterward, from his earlier Christian socialism, he did not become a pragmatist. He remained a Christian thinker. He simply changed his mind to a certain extent about what the Christian message means. Do you see that politics is not like this and should not be like this? If Niebuhr had concluded that God required pacifism, he would have returned to it. He was faithful to God. That is indeed the criticism of any religious person. Politics is not the place for theology. Or philosophy either. Politics is the art of the possible. And that is even true of our greatest thinking President, Abraham Lincoln.

Title: Economic Life Under Hallowed Secularism

Date: 2010-02-11T17:22:00.002-05:00

2/11/2010—Everyone should read Thomas Geoghegan's essay in this month's issue of Harper's Magazine (Consider the Germans, apparently not yet online). Geoghegan writes about the German economic system as a genuine alternative to American capitalism. He means by the German model, "the works council, the co-determined board, and the wage-setting institutions."The left in America has forgotten about fundamental economic issues. President Clinton signed the welfare reform bill that shredded the safety net and paid no political price for it. In fact, the left did not even care. What passes for the left in this country is concerned about healthcare, abortion, gay rights, global warming and ending the war in Afghanistan. These are very important matters to be sure, but they don't go to the heart of power and social life. Marx was right that only fundamental economic arrangements do that. Until I read Geoghegan's essay, I had not noticed my fatalistic assumption that debate about economics is over. That there is no real alternative to American-style capitalism. But he shows that Germany is an alternative and a successful one. The future is not closed to the possibility of economic reform. Rather than rail against the Citizens United case and its recognition of corporate free speech rights, why not try to tame corporations themselves by instituting change that makes them accountable to their own stakeholders: workers? Workers are the key and I'm not sure the left any longer believes that.

Title: Evolution in the Bible

Date: 2010-02-14T07:23:00.002-05:00

2/13/2010--In Elie Wiesel's little book, *Rashi*, some of the better known observations of this highly influential medieval biblical and talmudic commentator are set forth. Rashi, whose name was Solomon ben (son of) Isaac, was born around 1040 in Troyes, France. His influence in the Jewish world of the time was unsurpassed. Even today, faced with a question about the meaning of a verse in the Talmud, orthodox Jews will first look to Rashi, whose commentary is included in the text of traditional versions of the Talmud. My Soncino computer version of the Babylonian Talmud includes Rashi, for example, though only in the original, not in translation.

Rashi read the Torah, the Old Testament, literally, but imaginatively. The results could be surprising. For example, given Adam's reaction upon seeing Eve for the first time, "This is now bone of my bone and flesh of my flesh", Rashi concludes that Adam had previously mated with the animals but only achieved satisfaction when mating with Eve.

The verse in Genesis in which God curses the snake reads, "upon your belly shall you go" (3:14). Rashi therefore concludes that the snake had legs but then lost them. As we now know, that is truly the natural history of the snake.

This observation is of interest for two reasons. For one thing, it suggests an early human memory of change, if not evolution, in the natural world. Vestigial limbs may have prompted thoughts of changes in animal forms in early humans. The inclusion of such a hint in the Bible, like the reference to Mediterranean flood accounts, may point to stories and myths with origins in the natural world.

More significant in Rashi's suggestion is his method. Rashi is of course a biblical literalist in the sense that everything in the Bible is true. But he is not a biblical fundamentalist. Not everything is in the Bible, hence the legs of the snake are not mentioned, which means that a lot of natural history is left out. Nor does the Bible always say what it means. When the sons of Aaron are punished with death by God for offering "strange fire" to God (Leviticus, 10:1), Rashi concludes that they were drunk.

This kind of playfulness with the text does not denigrate it but makes it live. Rashi's faithfulness is not to Torah as such, as if Torah were the point, but to the relationship of humankind, principally the Jewish people to be sure but not exclusively, to God. To that end, the question is not whether the Bible is true, but what it teaches us about how to live. And in that quest, neither Rashi nor the other rabbis of the tradition, abandon their own judgment. If the Bible commands us not to eat pork, then of course we don't eat pork. But if the Bible commands us to stone violators of the Sabbath to death, we don't just do that and in fact that command fades away in Jewish history.

Then why read the Bible at all? Why not just live together as a community through human reason? That was not a question for them, but it is for us. My reason for beginning with the Bible and the other great religious texts of humanity is that they teach us the truths of humanity, history and nature. They reflect our collective wisdom. The Torah teaches an orientation toward reality that makes sense of the world. And except for the fact that God does not exist as an entity, I agree with Rashi that the Bible is basically true.

So It's a Christian Country...

2/17/2010--Russell Shorto's article in Sunday's New York Times magazine, "How Christian Were the Founders?" tells the story of how a determined group of right-wing Christians on the Texas State Board of Education is changing the way public school textbooks are written all over the country. When Texas adopts curriculum guidelines, the size of the Texas market tends to change the way publishers publish. As Texas goes, so goes your child's school.

The pressure by this group to remake the country can be informal as well as formal. For example, the phrase "living Constitution" used to be found in a well-known textbook and has now been dropped because of opposition by members of the Board.

One of the groups' current goals is to tell the story of the founding of the United States as a Christian founding. The phrase recurs, "this is a Christian country" and that history has been suppressed by a secular conspiracy of sorts among textbook publishers.

This kind of history war is familiar from cases interpreting the Establishment Clause. And politics is often about nothing more than the identity claim that the speaker is the true American. So, the fight over our founding can be expected to go on even without a clear current goal of changing policy.

But at one point in the article, Shorto describes what might be the endgame: "To conservative Christians, there is no separation of church and state, and there never was. The concept, they say, is a modern secular fiction. There is no legal justification, therefore, for disallowing crucifixes in government buildings or school prayer."

If by Christian country the proponents of these views of the founding think that the Supreme Court would allow Congress to rewrite the national motto as "In Christ We Trust", I can only say that this would take a very great change in the views of every Justice on the Supreme Court, including Antonin Scalia. Scalia wrote in his dissent in *Lee v Weisman*, the case that banned prayers from high school graduation, that the Establishment Clause does not allow the Government to endorse views on which monotheists disagree, such as the divinity of Christ: "I will further concede that our constitutional tradition, from the Declaration of Independence and the first inaugural address of Washington, quoted earlier, down to the present day, has, with a few aberrations, ruled out of order government-sponsored endorsement of religion-even when no legal coercion is present, and indeed even when no ersatz, "peer-pressure" psycho-coercion is present-where the endorsement is sectarian, in the sense of specifying details upon which men and women who believe in a benevolent, omnipotent Creator and Ruler of the world are known to differ (for example, the divinity of Christ)."

The question becomes, however, why, if we cannot endorse In Christ We Trust, we can endorse In God We Trust. Justice Scalia would say that the reason is tradition. But if we were founded as a Christian nation, Scalia is acknowledging that the tradition changed to accommodate nonChristians. The reason for that must be our increasing diversity. But that process does not stop. There are ever increasing numbers of nonmonotheists and nonbelievers. The future of the Establishment Clause lies with them. Just what that means, however, is open to debate.

Title: Pawlenty's God is in charge

Date: 2010-02-20T16:40:00.000-05:00

2/20/2010--The New York Times, Caucus blog, reported yesterday on Tim Pawlenty's address to the CPAC in Washington. Here is the entry in full: February 19, 2010, 1:57 pm Pawlenty's Principles: 'God's in Charge' By ADAM NAGOURNEY The Conservative Political Action Conference heard from another likely presidential candidate for 2012 on Friday – Gov. Tim Pawlenty of Minnesota. Mr. Pawlenty offered a series of what he called principles for the conservative movement that have become familiar here: Reducing the size of government, opposing President Obama's health care plan, denouncing Mr. Obama's handling of terrorists. But at a conference where there has not been a lot of talk about social issues, Mr. Pawlenty raised one as he laid out the principles conservatives should follow. The first one is this: "God's in charge," he said. "God is in charge." Mr. Pawlenty's remarks drew a wave of applause. "There are some people who say, 'Oh, you know, Pawlenty, don't bring that up. You know, it's politically incorrect.'" "Hogwash," Mr. Pawlenty said. "These are enshrined in the founding documents and perspective of our country. In the Declaration of Independence, it says we are endowed by our creator with certain unalienable rights. It doesn't say we're endowed by Washington, D.C., or endowed by the bureaucrats or endowed by state government; it's by our creator that we are given these rights." At first glance, one is inclined to say that Pawlenty is like George Bush, inappropriately invoking God as a cover for a set of highly partisan political positions. However, upon further reflection, one can see that Pawlenty is actually using God-language to enunciate a view that almost all Americans share—that human rights don't have to be earned, they are innate. Further, our rights are not gifts from other human beings, whether kings or Parliaments. If that is what it means to assert that God is in charge, most secularists would assert the same thing (though they would not use God-language without care that they would not be misunderstood). It is very important that Pawlenty did not claim any special revelation to say what these rights are. Nor did he claim that his God is particularly active in the world. Nor did he say that humans should not act on their own. About all he did say is that government is not God. Who would disagree with that?

Title: God is easy, death is hard

Date: 2010-02-22T19:52:00.001-05:00

2/22/2010—Happy Washington's birthday. There is an old story about a British actor (it is not clear who the speaker actually was) on his deathbed who was asked what dying was like. He replied, "Dying is easy, comedy is hard." This story is brought to mind because of a study of the beliefs of 18-29 year olds, released on Wednesday, 2/17, by the Pew Forum on Religion and Public Life. This group, dubbed the Millennials, showed themselves to be much less affiliated with religion than older Americans and less affiliated than Generation X and baby boomers had been at similar points in their lives (people tend to become more religious as they age). What is odd about the report is the gap between belief in God or a universal spirit, on the one hand, and belief in an afterlife, heaven and miracles, on the other. Only 64% reported themselves to be "absolutely certain" about belief in God or a universal spirit, whereas 75% believe in an afterlife, 74% in heaven and 78% in miracles. The gap is really much greater than at first appears because some of the respondents believe in a universal spirit, which presumably lacks the capacity of action associated with an orthodox belief in God. Thus, some of this group do not believe in God, but believe in aspects of reality usually associated only with God traditionally understood. For example, no one disputes that our brains die at biological death. For our personalities to continue to exist after death, there must be some exception to the material basis of our lives. The traditional God could ordain such a result, of course, but nothing else could. Whatever you may think of Christianity, it is not magic thinking. The God of the Bible is the sovereign of the universe. He makes ethical and ceremonial demands. He punishes and rewards. He is not a fairy tale. But when someone disengages the miracles God can accomplish from God, then how could these exceptions to the laws of nature come about? I worry about this coming generation. Back to the joke. The concept of God can always be reinterpreted to express nontheological beliefs. One can believe in the absolute. One can trust in the beneficence of the universe. One can attribute divinity to cosmic processes. Thus, God is easy. With enough interpretation, anyone can say I believe in God or I don't believe in God. But death is either the end of us or it is not. The real definition of the secularist is one who says, "I know my existence ends forever with my death." Apparently some people want things both ways. Death says they cannot have everything. We can dispute what God means, but not what death means.

Title: John Yoo and Nuremberg

Date: 2010-02-25T17:38:00.001-05:00

2/25/2010--for further commentary on the "exoneration" of John Yoo and Jay Bybee by the Justice Department, see my piece in the online magazine Religion Dispatches, John Yoo and Jay Bybee Dodge Disciplinary Action but Recall Nuremberg.

Title: One more time with Yoo

Date: 2010-02-27T09:41:00.001-05:00

2/27/2010--I thought myself a pretty determined opponent of the Bush Administration torture team. But that was before I received the following email from Susan Harman, who had read my comment in Religion Dispatches:*****In your article, John Yoo and Jay Bybee Dodge, you conclude by recommending we "bear witness" to the horrors perpetrated by these criminals. I live in the Bay Area, where we harbor four Bush war criminals: Bybee on the 9th Circuit, Yoo at Berkeley, Rice at Stanford, and Haynes at Chevron in San Ramon. We protest Bybee whenever the 9th sits anywhere: Seattle, Portland, Pasadena, San Francisco, Las Vegas. I myself will fly to Las Vegas next Tuesday to sit in his court with a sign saying "reckless disregard of his professional obligations." We have rewritten the words to Bye Bye Blackbird. We picket Yoo's house in the Berkeley Hills on a regular basis, and we often protest outside his class at Cal. In fact, the class has become a floating poker game: its location is secret until the night before, and then released only to the 24 students taking it. We have rewritten the words to It Had to be You. You have an opportunity to bear witness against Yoo on Mar 19 in Charlottesville, VA. For more info see <http://hoosagainstyoo.com>*****Susan is my hero.

Title: The Post-Secular is not the Pre-Secular

Date: 2010-03-01T08:57:00.004-05:00

3/1/2010—The term “post-secular” is all the rage now. The law school section on law and religion is even considering it for next year’s program, among other possibilities. But what does it mean? One aspect of the post-secular is clearly the resurgence of religion in the world. This phenomenon is said to represent a challenge to the secularization thesis: that religion would decline as wealth increased in the world. But, since the “religion” that is increasing is mostly of the fundamentalist variety, and this is true in Christianity as well as Islam, this growth would seem to suggest a “pre-secular” context rather than a post-secular one. I think the notion that religion is on the rise is false. But whether it is the case or not, the presence of believers in the public square serves only to discredit a rather extreme secular view that religious believers have no right to express their religion in the public square. That view, popular at the end of the twentieth century among some secularists, has not been much heard from since the 2004 Presidential election. (You still hear its echo in the attacks on the Mormon Church for supporting Proposition 8). The recent Newsweek story about Harvard and religion demonstrates this kind of change. What I mean by the post-secular is something different and has to do with changes within secularism. There are secular thinkers, for example Stuart Kauffman’s book *Reinventing the Sacred* or Andre Comte-Sponville, *The Little Book of Atheist Spirituality*, who are looking at religion and religious images and traditions as sources of wisdom. In other words, the post-secular is characterized by the softening of the religious/secular border, no longer a wall but perhaps a grab bag, with gifts from and to many different traditions.

Title: "under God" as Identity Politics

Date: 2010-03-04T05:09:00.002-05:00

3/4/2010—Jonathan Raban's article about the Tea Party in the New York Review of Books contains the following description of the convention in Nashville: "We said prayers, recited the Pledge of Allegiance (with the words 'under God' pronounced as if they were underlined and in bold type), and clapped in time with the beat of country music... ."Elsewhere, the article makes it clear that the movement is not particularly religiously-oriented, either in motivating goals (which have more to do with deficits and spending along with a stronger military than with any social issues) or in the affinities of its members (although there are many religious believers in the movement).Rather, prayer, God and country music are cultural/political markers. They demarcate the movement as "ordinary Americans" as opposed to the elitists supporting President Obama.Even secularists who oppose religious imagery in the public square understand this and so when I speak about religious language in the public square, they admit that they are willing to leave God-language alone. Certainly that is true as well of the Democratic Party, which would probably be willing to require its candidates to write "under God" 500 times before every election.This is what happened to gun control, which is part of the reason that the right to bear arms will soon be constitutionalized everywhere. That does not bother me much, but constitutionalizing monotheism is another matter. I don't want to see that. That would represent a real loss of freedom in America.The choices are, genuinely fight for a secularized public square or reinterpret religious imagery so that it is not purely religious and can be present on that basis in public life. Ignoring the partisan use of God is not an option.

Title: Calling all secularists Monday night

Date: 2010-03-06T07:25:00.006-05:00

3/6/2010—This Monday night, 3/8, at 9 p.m. ET, Tikkun magazine will sponsor a phone forum in which callers will be able to ask questions about my contribution to the theme of this month's issue: [God and the 21st Century](#). Call (888) 346-3950 and enter 11978#.

The magazine issue is organized around Arthur Green's upcoming book, *Radical Judaism*. His essay is entitled "Sacred Evolution: A Radical Jewish Perspective on God and Science". As the title suggests, Green is engaging in a form of religious naturalism. He writes of God, "I do not affirm a Being or Mind that exists separate from the universe and acts upon it intelligently and willfully." What differentiates Green from a materialist or a pantheist (he calls himself a *mystical panentheist*) is that "this whole is mysteriously and infinitely greater than the sum of its parts, and cannot be known fully or reduced to its constituent beings." This position sounds like the concept of emergence in biology. Holiness resides there. Almost all of the contributors to the magazine commenting on the theme of God seem to share Green's framework: science first and religion adapts. Hans Kung, Aryeh Cohen and Zaid Shakir are exceptions. (For background, see Jerome Stone's recent book, *Religious Naturalism Today*).

What is odd about this is that I share Green's framework too, but I am about the only "secularist" in the magazine. I know what Christopher Hitchens would say about this. He would repeat his comment to Marilyn Sewell, a Unitarian Minister who was trying to differentiate herself from fundamentalist Christianity: "I would say that if you don't believe that Jesus of Nazareth was the Christ and Messiah, and that he rose again from the dead and by his sacrifice our sins are forgiven, you're really not in any meaningful sense a Christian." He would say that Green is not a Jew. Granted, it is harder to pull that stunt with Judaism than with Christianity, but that would be the general view both by Hitchens and by many Jews.

Now I would not say that. My experience is just that the Green translation becomes too difficult over time. And you can hear the difficulty in his essay, which is too long and too qualified to inspire. He also has lost the concept of evil along the way. I think Green illustrates that mysticism, and indeed the personal in general, are not important religious categories without a strong unifying narrative. Yes, people are saved in fundamentalist religion, but only because God is real.

My contribution to this is twofold. First, I'm in the same boat as most of the others, but I don't call it religion. I call it Hallowed Secularism. Thus, you don't have to join organized religion. Actually, I can't join organized religion and I don't understand how others manage to do so.

Second, and more significant, I argue in my recent manuscript, *Higher Law in the Public Square*, that if God can mean what these writers mean by God, then In God We Trust does not violate the Establishment Clause.

Title: Sticking with the Bible at the Tikkun phone-in

Date: 2010-03-10T08:13:00.002-05:00

3/10/2010—My thanks to Dave Belden and Alana Price at Tikkun magazine for the wonderful phone-in conversation Monday night. My thanks as well to all those who listened in and especially to the persons who asked questions and entered the discussion. It was a terrific give and take. Several people called in to talk about their religious experiences, which were often similar to mine even though this audience has been able to remain within the religious traditions, such as liberal forms of Catholicism, or Unitarianism or Ethical Culture, while I have not been able to find a place to land. I have been wondering why this is, why others have not been set adrift as I have been. One reason is my own impatience and pride, which of course is no compliment. I cannot sit and listen while other people participate in forms of faith that I have left. There is not much point in acknowledging that this is a flaw. I am tired of being so judgmental and everyone I was around was tired of it as well. In leaving my synagogue I did myself and everyone else a favor. But the reason I could not move over to Unitarianism or the Ethical Culture movement or other forms of humanism is that I remain biblically oriented. The Bible, Old and New Testaments, seems to me to contain the truth about existence. I don't believe in the Bible. Rather, in many ways I believe and trust the Bible. I just don't believe in God. Odd but true.

Title: "In God We Trust" Upheld by the Ninth Circuit

Date: 2010-03-12T18:40:00.001-05:00

3/12/2010—Yesterday, a 3-judge panel of the Ninth Circuit Court of Appeals upheld the constitutionality of the national motto in a challenge brought by Michael Newdow, who also brought an earlier challenge to the Pledge of Allegiance that the Supreme Court dismissed in 2004 on the ground that he lacked standing (the Ninth Circuit in that case had held that recitation of the Pledge in public school violates the Establishment Clause). Yesterday's case decided very little since the panel dismissed the challenge simply based on *Aronow v. U.S.*, which is binding circuit precedent from 1970. The majority opinion by Judge Carlos Bea quoted the *Aronow* precedent as follows: "It is quite obvious that the national motto and the slogan on coinage and currency 'In God We Trust' has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.* * *It is not easy to discern any religious significance attendant the payment of a bill with coin or currency on which has been imprinted 'In God We Trust' or the study of a government publication or document bearing that slogan.... While 'ceremonial' and 'patriotic' may not be particularly apt words to describe the category of the national motto, it is excluded from First Amendment significance because the motto has no theological or ritualistic impact. As stated by the Congressional report, it has 'spiritual and psychological value' and 'inspirational quality.'"This language is consistent with the thoughtless "ceremonial deism" approach that upholds quite a lot of religious language and imagery despite the Supreme Court's promise since 1947 of government neutrality between religion and irreligion. The assertion that references to God have no religious meaning is silly. Obviously, religious believers fight for these references because they are understood to have precisely such meaning. Nonbelievers like Newdow oppose them for the same reason.To resolve the crisis of the Establishment Clause it will be necessary to interpret God language and other religious language in a way that both honors the clear religious meaning that is present and at the same time delineates a secular message in the same language. And these two meanings will have to be related.I believe the higher law tradition allows precisely such a harmonizing approach.

Title: The Cascade of Nontheistic Religion

Date: 2010-03-14T09:36:00.002-04:00

3/14/2010—There is so much activity right now in the category of nontheistic religion that it is hard to keep up. Lots of Americans and other Westerners are apparently looking for religion without the supernatural. For starters, I am reading Jerome Stone's full treatment of the history and development of Religious Naturalism: Religious Naturalism Today (2009). Then I saw on Tikkun Daily a comment on Stephen Batchelor's Confession of a Buddhist Atheist, particularly the endorsement of the book by Christopher Hitchens. Religion Dispatches is currently touting reviews and discussion of three such books: Bron Taylor, Dark Green Religion; Benjamin Weiner, Yearning for a God We Can Live With; and Jay Michaelson, Everything is God. And of course there is Hallowed Secularism. All of these books raise similar kinds of questions. For example, what is nature of the invisible? After all, quantum physics is all about the invisible, but it is still science. I think that what people are rejecting is not the invisible, but willful interference with the laws of nature by a supernatural entity. Or as the New Testament puts it, "Who is this? Even the wind and the waves obey him!" (Mk. 4:41). Two matters bother me about all this work, including my own. First, there is very little here about sin. Even the environmental catastrophe is being brought about by misunderstanding, not by human evil. The Judeo-Christian tradition here is morally superior. This absence of evil is the danger of emphasizing spirituality. Similarly, there is very little here about justice. The poor at least have had the divine right to object to things as they are. So where is the prophetic voice in these authors? The Judeo-Christian tradition here is morally superior as well.

Title: The Dems Had Better Pass Healthcare Reform

Date: 2010-03-16T18:44:00.001-04:00

3/16/2010—It seems to me very strange that a predominantly Christian nation does not provide healthcare for all of its citizens. I readily admit that there are many routes to that goal and that President Obama's plan might not be the best possible solution. But, in the end, the Obama plan will cover almost all Americans and that seems to me to be a moral imperative. If the Republicans had proposed a better plan when they were in power, I would have supported that. But to me, the willingness of conservative Christianity in America to live with millions of uncovered citizens is a scandal to the Gospel. I am particularly disappointed by organizations like World Magazine and the Catholic Bishops, from which I had expected better. Naturally there is also a political aspect to all this. The Democrats are aware that the polls are against them on the healthcare issue. But if they think people will be upset if they pass the Obama plan, just wait and see what happens if they fail altogether. All this talk about starting over is just a clever Republican strategy to be able to argue in November that Obama and the Democrats are ineffective. Believe me, the Republicans don't want to have to argue in November that the plan was a bad one. By that time, Americans will have figured out that just about everyone is now covered and that if something bad happens to them or a member of their family, they will no longer have to worry so much about losing healthcare coverage. No matter the details, that is going to sound pretty good in November. Besides, as I started out saying, it is the right thing to do.

Title: Why fight about the Pledge of Allegiance?

Date: 2010-03-19T09:44:00.002-04:00

3/19/2010--Yesterday, Victor Bernard wrote a thoughtful op-ed in the Post-Gazette, challenging the newspaper's endorsement of the ninth circuit opinion upholding the "under God" language in the Pledge of Allegiance. I have placed a response to him on the Huffinton Post.

Title: The Pledge of Allegiance Debate

Date: 2010-03-21T10:11:00.002-04:00

3/21/2010—As readers of this blog may be aware, last Friday I posted a full response on Huffington Post to Victor Bernard's Post-Gazette op-ed. The response was very strong and largely negative. I learned two important lessons in this round on this recurrent issue. First, atheists insist that God can only mean the supernatural deity described in the Bible. Naturally, from this premise, the Pledge is unconstitutional. Atheists make this assertion despite the fact that liberal believers have been arguing for over a hundred years that God for them means something else and despite the fact that the word God has functioned in different ways in our own political history—standing for the objectivity of values and natural rights, for example. This insistence on a narrow story is eerily similar what the religious right would say. They also would assert that God means God in the Pledge. These two sides are together blocking the emergence of something new, whether that something turns out to be a new kind of nonsupernatural religion that evolves out of the biblical tradition or a more open secularism that sees wisdom in traditional religious language. The two sides are keeping us in a box. Sam Tanenhaus echoes this Pledge story in his Week in Review article in today's NY Times. He makes the point that histories of the United States now tend to choose sides in the history culture war debates rather than finding anything like common ground. But, and this is the second thing I have been learning, there really is common ground and it is not that hard to find. Here is an example of what I mean. Atheists like to assert that there is something like a gap between the Declaration of Independence and the Constitution in that the former refers to "their Creator" as the source of natural rights whereas the Constitution does not mention God, as in *The Godless Constitution*, by Isaac Kramnick and R. Laurence Moore. But there actually is no gap at all. The natural rights of the Declaration of Independence are planted firmly in the Ninth Amendment to the Constitution: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." Natural rights, not the existence of God, was the point in the Declaration as well. Under God in the Pledge can fairly be taken to mean in context, a nation that recognizes the reality of rights versus any positivistic or relativistic or nihilistic conception of political life. Finally for today, my son Ben was hurt yesterday and will be having outpatient surgery tomorrow. So, Ben, although we hallowed secularists don't have any prayers to remember you with, in the immortal words of Sarah Palin, you betcha we're doing the thinking of you thing.

Title: The Legal Attack on Healthcare Reform

Date: 2010-03-24T11:10:00.002-04:00

3/24/2010—Most of the Republican-inspired legal challenges to the recently enacted healthcare bill do not amount to much. In fact, the notion that states can exempt their citizens from the requirements of federal law is reminiscent of the Nullification Crisis of 1832, which was, as described on Wikipedia: “a sectional crisis during the presidency of Andrew Jackson created by South Carolina's 1832 Ordinance of Nullification. This ordinance declared, by the power of the State itself, that the federal Tariff of 1828 and the federal Tariff of 1832 were unconstitutional and therefore null and void within the sovereign boundaries of South Carolina.” The concept of nullification was rejected and that rejection was perfected at Gettysburg.

The one legal challenge people say might be serious is the substantive due process notion that the federal government, indeed no government, can require a citizen to purchase a product from a private entity, in this case the mandate that everyone must have healthcare. I don't think this is a serious legal argument either. It is similar to the argument the Supreme Court rejected in 1934, in *Nebbia v. NY*, that it was unconstitutional for a State government to tell a private business what price it could sell its product, milk in this case. The Court upheld price controls, saying

“The due process clause makes no mention of sales or of prices any more than it speaks of business or contracts or buildings or other incidents of property. The thought seems nevertheless to have persisted that there is something peculiarly sacrosanct about the price one may charge for what he makes or sells, and that, however able to regulate other elements of manufacture or trade, with incidental effect upon price, the state is incapable of directly controlling the price itself. ...The Constitution does not secure to any one liberty to conduct his business in such fashion as to inflict injury upon the public at large, or upon any substantial group of the people. Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy the Legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty.”

In the case of health insurance, the mandate is necessary because everyone else pays for the medical care of the uninsured. When you are in a traffic accident, the ambulance takes you to the emergency room whether you have insurance or not. You could even have a button that says, “let me die on the road, I don't want hospital care” and you will still end up with hospital care you will not be able to pay for.

In general, the question is, what happened to the conservative critique of the liberal distrust of democracy? Conservatives used to say that liberals run to the courts because they cannot win in the democratic forum of the legislature. That is what Republicans are doing now. Why are the Republicans not content to run against healthcare reform in November? If they win big, President Obama will serve only one term and they will be free to repeal all this. Their problem is, they are afraid they will not win at the voting booth. That is why they are turning to poor legal arguments instead.

Title: The New Neo-Hasidism

Date: 2010-03-26T08:51:00.004-04:00

3/26/2010—the new book, *A Heart Afire: Stories and Teachings of the Early Hasidic Masters* by Zalman Schachter-Shalomi and Netanel Miles-Ypez, reviewed here at Religion Dispatches, looks like tremendous fun. Schacter is an infectious character and represents the best of universalist Jewish spirituality, open to Zen, Science Fiction, Sufism, and everything else. His picture alone is worth the price of the book. I'm definitely going to read it. Having been raised within the Lubavitch movement myself, and having fallen in love with Martin Buber's *Tales of the Hasidim*, I can testify to the power of this movement for the believer. Yet it must be admitted that neo-Hasidism, for all its greatness, has not sparked serious Jewish and religious renewal beyond a certain core. Why is this? That is impossible to answer, but I do have one suggestion. The Hasidic God is much too traditional to be any use today. Hasidic reverence for the world has to be teased out from the anthropomorphic deity. That task calls to us, not to the followers of the Rebbe. They have done their part. Now we must do ours.

Title: Happy Passover

Date: 2010-03-29T15:44:00.002-04:00

3/29/2010—Tonight is the Seder. Not having or attending a Seder is one of the most noticeable changes in my newly secular life. I feel a little like those First Century Jewish followers of Jesus eating pork shortly after his death. The odd thing about this absence is that Passover probably is one of the religious ceremonies that secularism in America should celebrate. The Exodus story has been an inspiration to the oppressed for thousands of years. Its message is that reality is somehow on the side of the downtrodden. Or, as Martin Luther King Jr. once said, the moral arc of the universe is long, but it bends toward justice. Unfortunately, we don't have the right context for a ceremony yet. (The Obama White House has something close, but if you read the stories, you heard about the gefilte fish. I hate references to Jewish foods around holidays. It robs the holiday of its meaning.) The other memorable aspect of Passover is the fact that God only remembers the Hebrew slaves when he hears them. The philosopher Peter Singer has raised the question whether we owe the poor far away the same duty we owe our neighbors closer by. (I think he says yes). But the Passover story suggests that we are stimulated in our empathy by the direct presence of the suffering of the other. (In the story, Moses as well acts only in the direct presence of suffering.) To everyone, then, a happy Passover.

Title: I'm not understanding Candace Chellew-Hodge

Date: 2010-04-01T08:57:00.002-04:00

4/1/2010—Candace Chellew-Hodge had a piece in Religion Dispatches yesterday that confused me. She was criticizing the Presbyterian Church for bringing church charges against Rev. Janie Spahr for performing same-sex marriages that were legal at the time under the law of California. Before going further I want to make clear that Chellew-Hodge, Spahr and I do not differ over whether same-sex marriage should be legal. We all think it should be. Nor do we differ over whether our religions should recognize same-sex marriage as a legitimate union. They should. The confusion is over what difference the civil status of the marriage makes. I would assume that the church must make its own judgment about whether a union of two people is legitimate or not. If it is not, the church must regard the relationship as sinful. After all, two heterosexuals living together are also “legal” under California law, but the church regards such behavior as sinful all the same. So I fail to see how the temporary status of gay marriage as legal in California, unfortunately overturned by Proposition 8, could be a defense for Spahr. Partly, the confusion is the fault of the Presbyterian Church. In 2006, the Church did not really discipline Spahr because the same-sex marriages she performed were not really “marriages”. So now, these marriages were indeed “marriages”. The mistake last time in not making an independent judgment about what relationships the church should recognize has come back to haunt it. But the question now is the same as it was then. Will the church welcome in love the full, expressed relationship of two Christians?

Title: A Secular Easter?

Date: 2010-04-03T07:31:00.001-04:00

4/3/2010—A Happy Easter to all the Christian readers of this blog. Actually, Easter, and by extension Christianity, is the subject of this entry. You can imagine some religions as secularized. Judaism, for example, has been approached this way by a variety of people seeking different goals: ethical, cultural, even food. The holidays of the Jewish calendar have obvious secular application: Yom Kippur, personal reflection; Passover, freedom; Shavuot, peace through just law; Succoth, environment and so forth. These holiday can be looked at without any necessary supernatural content, although to do that naturally alters their meaning. But the structure of the calendar and even many of the practices could be retained. You can imagine doing this with Buddhism and Islam as well, very differently in each case. But Christianity is different. As C.S. Lewis said, Christianity is one big miracle. Resurrection is not rebirth. And Jesus of Nazareth is not the same if the resurrection does not occur. And resurrection, although mysterious even in the Gospels, is not something natural. This matter needs to be thought through. Christianity is widely thought to have given birth to “the secular”, a category that hardly exists in other religions but is deeply woven into the Christian West. But can Christianity really co-exist with the secular? Dietrich Bonhoeffer thought it could, but was he right?

Title: Hallowed Secularism on Opening Day

Date: 2010-04-05T07:55:00.002-04:00

4/5/2010—Today is opening day for the Pirates. Since this site is dedicated to secular religion, that can only mean the opening narration of Annie Savoy, from the movie Bull Durham: I believe in the Church of Baseball. I've tried all the major religions, and most of the minor ones. I've worshiped Buddha, Allah, Brahma, Vishnu, Siva, trees, mushrooms, and Isadora Duncan. I know things. For instance, there are 108 beads in a Catholic rosary and there are 108 stitches in a baseball. When I heard that, I gave Jesus a chance. But it just didn't work out between us. The Lord laid too much guilt on me. I prefer metaphysics to theology. You see, there's no guilt in baseball, and it's never boring... which makes it like sex. There's never been a ballplayer slept with me who didn't have the best year of his career. Making love is like hitting a baseball: you just gotta relax and concentrate. Besides, I'd never sleep with a player hitting under .250... not unless he had a lot of RBIs and was a great glove man up the middle. You see, there's a certain amount of life wisdom I give these boys. I can expand their minds. Sometimes when I've got a ballplayer alone, I'll just read Emily Dickinson or Walt Whitman to him, and the guys are so sweet, they always stay and listen. 'Course, a guy'll listen to anything if he thinks it's foreplay. I make them feel confident, and they make me feel safe, and pretty. 'Course, what I give them lasts a lifetime; what they give me lasts 142 games. Sometimes it seems like a bad trade. But bad trades are part of baseball - now who can forget Frank Robinson for Milt Pappas, for God's sake? It's a long season and you gotta trust. I've tried 'em all, I really have, and the only church that truly feeds the soul, day in, day out, is the Church of Baseball. And if that is not hallowed secularism, then I don't know what is. Let's go Bucs.

Title: Will Jon Meacham's religion last?

Date: 2010-04-07T08:36:00.004-04:00

4/7/2010—I predict that Jon Meacham's religion will not last. Meacham is a liberal Episcopalian who writes of his religion and family, "I am an Episcopalian who takes the faith of my fathers seriously (if unemotionally), and I would, I think, be disheartened if my own young children were to turn away from the church when they grow up. I am also a critic of Christianity, if by critic one means an observer who brings historical and literary judgment to bear on the texts and traditions of the church." He writes this in the New York Times Sunday book review, reviewing Diarmaid MacCulloch's book, *Christianity: The First Three Thousand Years* (review [here](#)). Of MacCulloch, Meacham writes that "I sense a kind of kinship". But Diarmaid is not a Christian. He writes of himself, as Meacham notes, "I would now describe myself as a candid friend of Christianity. I still appreciate the seriousness which a religious mentality brings to the mystery and misery of human existence, and I appreciate the solemnity of religious liturgy as a way of confronting these problems."

Now, on one level, it is easy to say that Meacham's religion will not last. Nothing lasts. Everyone's children, or their children, or the children of their children, turn away from something that you and I find very important. So I guess I mean more than that. I mean that Meacham's young children will themselves probably turn away from his contorted Episcopalianism. At least my children did from my equally fraught Judaism.

The problem is that Christianity is supernatural. Not in its detail, but at its heart. In the very liberal Religion Dispatches yesterday, I was a little surprised to find this statement by Rev. C. Joshua Villines about what Christians believe: "Christians are people who believe in a divine reality, one beyond the material world perceived by our five senses. We believe that there is more to life than what we can control or understand. We believe that there is something beyond our comprehension, and that "something" is conscious, vital, wise, and loving in a way that is not limited by space or time. While Christians might have different perspectives on the value of the experiences and content of the material world, we are united in our belief that there is *more*."

I was only surprised because in such a liberal magazine, I would have expected an acknowledgment that some people who call themselves "Christians" would have a hard time calling this reality "conscious". Once you do that, using the word "something" is irrelevant. This is the biblical supernatural God.

And belief in this God, who could control the natural forces in the world, is the crucial stopping point for people like me and, perhaps, like Meacham. Without it, though, the kids don't stay in the religion.

The next question is, why write about this? I said in the book *Hallowed Secularism*, that I had nothing against liberal religion even though I could not sustain it for myself. Yet I find myself often writing against it, as here. Next blog I will take up the question of why that might be.

Title: So, What is Wrong with Liberal Religion?

Date: 2010-04-10T12:34:00.003-04:00

4/10/2010—In my last blog entry, I asked whether the kind of liberal religion evinced by Jon Meacham in a recent book review is sustainable in the long run. I answered, no. But there is another issue here. I often find myself criticizing efforts like those of Meacham. Yet I wrote plainly in *Hallowed Secularism* that I had no problem with liberal religion, that I practiced it myself for years, and that I was supportive of people who managed to stay in our religions, even though eventually I felt I had to leave. It is obvious that I do think there is something wrong with liberal religion. And the problem with it cannot really be that it is destined to fade away, which is what Mark Lilla wrote in his book, *The Stillborn God*. Certainly I am in no position to criticize that. *Hallowed Secularism*, my position, does not even exist yet. I think what bothers me about liberal religion—that is, people who don't really believe in the supernatural claims of a religious tradition but who go on attending and practicing more or less as if nothing had changed—is that they are blocking the future. Meacham apparently attends church and continuously translates what is being said there into some sort of acceptable alternative. Or, worse, he just lets it all wash over him as what he calls a mystery even though he does not accept what is being claimed. That is not a sustaining way of life. Religion must be a full, passionate commitment, including the viscera, as William Connolly puts it in *Why I am Not a Secularist*. Religion must include the nonrational elements of awe, wonder and worship. Religion must be something worth dying for. Some atheists would say that this is precisely why we should not have religion. Suicide bombers have something worth dying for. That is the problem. But a human life of tepid materialism, which is what New York Times columnist David Brooks said is great, in an April 5 column (he wrote, "Educated Americans grow up in a culture of moral materialism" and he meant it as a compliment) is not a life. It will be rejected by the young eventually. It is not how America was founded. We were not a Christian nation, but we were a nation founded on a powerful truth about human freedom, a truth our founders thought worth dying for. I admit that I do not yet foresee this new way of life that replaces religion in a way that is humanly satisfying. But, liberal religion is not it and currently siphons off energy and intelligence that should be devoted to helping us find a way into the future. That is what is wrong with liberal religion.

Title: Martin Buber on Jesus

Date: 2010-04-12T20:23:00.002-04:00

4/12/2010—Just because I don't think the answer to the future resides in our religions, doesn't mean that there is nothing potentially world-altering there. One such development would be the reform of Islam. Another would be the reform of Judaism through a serious consideration of Jesus' message. Whatever else one might say of Jesus, it seems clear that he was preaching something new in terms of Judaism. Not something so radically new that it would have been regarded as a new religion—Jesus was not a heretic. Indeed, heresy in the first century had more to do with cooperation with Rome than with religious beliefs. In any event, Jesus was popular among the generally conservative peasants of the region. He was not a Christian. Just what Jesus' message was is something scholars are working on now. But, a more fundamental question is whether it is legitimate to look to Jesus for future developments in Judaism. Most Jews would say no. But Martin Buber said yes. Here is a quote from Buber that I saw today: "From my youth onwards I have found in Jesus my great brother. That Christianity has regarded and does regard him as God and Savior has always appeared to me a fact of the highest importance which, for his sake and my own, I must endeavor to understand.... My own fraternally open relationship to him has grown ever stronger and clearer, and today I see him more strongly and clearly than ever before. I am more than ever certain that a great place belongs to him in Israel's history of faith and that this place cannot be described by any of the usual categories." Buber knew what he was suggesting. There is something here greater than the prophets. Jesus was not some reforming preacher. He was that, of course, but he was more. Jesus was touched by the divine in some unfathomable sense. Those Jews among us, like myself, who first encountered Jesus later in life, know what a thunderbolt he was. He was Torah walking around. Why should Jews not consider that? Not with the kind of literalness that afflicts the group, Jews for Jesus, but as something quite dramatic and world changing.

Title: Why William Connolly "is not a secularist"

Date: 2010-04-15T04:40:00.002-04:00

4/15/2010—William Connolly, a professor of political science at The Johns Hopkins University, wrote *Why I Am Not a Secularist* in 1999. It addresses the question I wrote about in *American Religious Democracy*—the legitimacy of religious discourse in political life. This is the issue that keeps coming up—when, for example, the Mormon Church encourages its members to support Proposition 8 in California—the ultimately successful effort to reverse legalized gay marriage--and they do so to such an extent that Proposition 8 would probably not have passed without their support. Some opponents of Proposition 8 claimed that this represented a violation of the separation of church and state. Connolly shows why this kind of claim is false in a fundamental sense. I will return to Connolly in future posts, but here is an example of his criticism of the insistence on religion-free politics:

"Academic secularists are almost the only partisans today who consistently purport to leave their religious and metaphysical baggage at home." (37) Not only does this open the secularist to the charge of hypocrisy for bringing her own baggage along, it actually is hypocrisy because there is no metaphysically-free position. This last point is crucial for the self-understanding of secularism. The project of John Rawls was to "ground secular justice...without invoking 'controversial' religious and metaphysical conceptions." If that cannot be done, secularism will have to cease claiming that unlike religion it is simply rational. I'm not sure that Connolly succeeds in his effort to ground politics "in an ethos of engagement between multiple constituencies honoring a variety of moral sources and metaphysical orientations." (39) But he clearly does succeed in envisioning a more liberal politics in which everyone, including religious believers, has a place.

Title: How Religions are Hijacked

Date: 2010-04-19T17:40:00.001-04:00

4/19/2010—The question is asked all the time, “why don’t Muslims denounce jihadist violence?” Where are the voices of reason within that religious tradition? Well, if we look at an analogous situation, we can perhaps begin to empathize with the moderate majority of Muslims.

In the recent issue of the New York Review of Books, Eyal Press writes of the growing movement in the Israeli army to refuse any order to forcibly evacuate west bank settlements as part of an agreement with the Palestinians. ([Israel's Holy Warriors](#)) Not only does this movement threaten the democratic character of Israel, but even more significantly, Press shows that the movement is overwhelmingly religious in character: “when the Israeli government introduced a plan to dismantle twenty-six illegal settlement outposts in the West Bank last May, a coalition of rabbis based in the settlements advocated refusal. ‘The holy Torah prohibits taking part in any act of uprooting Jews from any part of our sacred land,’ they wrote.” At the Har Bracha Hesder Yeshiva, which the Ministry of Defense had previously funded as part of a shared military/religious training program, Rabbi Eliezer Melamed, published a book distributed to its graduates that unabashedly promoted refusal: “A simple halakha [law] is that it is forbidden for any person, whether a soldier or an officer...to participate in the strictly forbidden act of expelling Jews from their homes and handing over any portion of the Land of Israel to enemies.”

The problem here is not just the obvious one: how can there be peace if right wing religious types control the army? Rather, the problem is a religious one. Is it in fact forbidden by Jewish law to make a peace deal with the Palestinians that includes relinquishment of West Bank territory?

Now, I admit that I don’t know much about the intricacies of Jewish law. I have never read the works of the late Rabbi Tzvi Yehuda Kook, considered the spiritual father of the settlement movement. But it is hard for me to understand the legal position being proposed. In a sense, the entire Talmudic project represented an acknowledgement that giving up the holy land without further violence against Rome was the proper Jewish action after the Bar Kochba rebellion in 132. In addition, a peace deal with the Palestinians would not exclude Jews necessarily from land promised by God in the Torah. After a peace deal, one would simply live there under Palestinian authority and law. That was always the case with Jews living in Israel prior to 1948. Surely there was no religious obligation to seize the land throughout all that time.

As I say, I cannot make these arguments since I don’t know and don’t care about Jewish law. But that is true of secular Muslims as well in terms of violence. It is time to ask, where are the Jewish rabbis who should be contesting the settler interpretation of Jewish law? And I don’t mean just in Israel. Where are the rabbis here in America? And I am not talking about liberal rabbis making essentially political arguments for peace. Where are the serious Jewish scholars to contest with the rabbinic right wing from within the tradition? They have thus far been silent. Just like many Muslim leaders.

Title: Happy Earth Day, One Day Late

Date: 2010-04-23T19:17:00.000-04:00

4/23/2010—The question for Earth Day is this: can environmentalism form the basis of an alternative worldview (or religion) or is the world around us just one more aspect of reality that we view through the lenses we already operate with: religious, utilitarian, materialist etc.? I vote for the latter. I have yet to see a genuinely new consciousness arise out of environmental commitment, despite the contrary claims of “deep environmentalism”. Maybe Peter Singer is an exception. Most people are concerned about global warming, for example, for the same reason they are concerned about poverty: it is bad for humans. That is not a criticism, just an observation. One reason that the environment has not generated a new consciousness (at least as far as I know) is that the environment is really just a small aspect of the cosmos. And life itself is a very small minority in that cosmos, again as far as we know yet. So, physics rather than biology would have to serve as the basis for a new worldview. Such a view would not necessarily be recognizable as “environmental”.

Title: National Day of Prayer Constitutional

Date: 2010-04-25T20:14:00.001-04:00

4/25/2010—Last week, Federal District Judge Barbara B. Crabb ruled that the federal statute establishing the National Day of Prayer is unconstitutional because it violates the Establishment Clause. The Judge held that the statute's "sole purpose is to encourage all citizens to engage in prayer, an inherently religious exercise that serves no secular function." Most legal observers expect the decision to be reversed on appeal and I doubt that the case will ultimately go to the United States Supreme Court. But aside from political prognostication, what exactly was wrong with the decision? I think the error is in calling prayer inherently religious and without a secular function. Clearly, prayer can be addressed to a supernatural being, a God. But, just as clearly, prayer can reflect intense self-examination and an attempt to place oneself in a penitential mood. Prayer can be a recognition that we do not control everything. As for a secular function, that depends on what the judge thinks secular functions are. A nation that repents of its ways would be a great country.

Title: "Young Adults Less Devoted to Faith"

Date: 2010-04-27T09:18:00.001-04:00

4/27/2010—Did you read today's story in USA Today? In a survey conducted by a Christian research firm, 72% of 18-29 year olds say they are "really more spiritual than religious," "If the trends continue, 'the Millennial generation will see churches closing as quickly as GM dealerships,' says Thom Rainer, president of LifeWay Christian Resources."The actual statistics are not as shocking as that sounds. Around 65% of this group still call themselves Christian. The national average is around 76%, so that is not a complete change. On the other hand, 65% of the group rarely or never pray with others. That means only 35% have any connection with organized church life. Will this group become more religious as they age? Undoubtedly. But the real question is, how religious will their children be? Not religious at all. In one generation, from "spiritual" to secular. Hopefully, hallowed secular.

Title: The Cross in the desert case

Date: 2010-05-01T11:25:00.002-04:00

5/1/2010—Well, *Salazar v. Buono* came down last week, essentially allowing the land transfer to the VFW in order to continue to display the cross in the Mojave desert as a WWI memorial. (Technically, it was a remand but the writing is on the wall). No surprise because the cross was clearly being used as a symbol of the dead rather than as a Christian symbol. Here is how I describe the case in my upcoming book, *Higher Law in the Public Square*:

There are religious symbols which, even without special explanation, are understood to convey mixed religious and secular messages. One such religious symbol that arguably conveys a nonreligious message is a cross used to symbolize the ultimate sacrifice at a war memorial on public land. Such a cross was at issue in *Salazar v. Buono*, which was decided in April, 2010.

In *Buono*, the Court faced a complex legal and factual context. In 1934, the VFW erected a Latin cross on federal land in the Mojave National Preserve to honor the dead of W.W.I. In 2002, Federal Judge Robert J. Timlin found that display of the cross on federal land violated the Establishment Clause and granted an injunction ordering the government to remove the cross. Meanwhile, Congress enacted a statute transferring the cross and the land on which it stands to the VFW in exchange for other land of equal value. Judge Timlin then found the land transfer statute unconstitutional and ordered that the 2002 injunction be enforced.

Justice Kennedy, joined by Chief Justice Roberts and Justice Alito in part, found that the Judge should not have enjoined the land transfer without further study because the original decision applied only to a cross on federal land. The land transfer changed the circumstances. The case was remanded to the court below for further consideration because Justices Scalia and Thomas, who found that the plaintiff lacked standing, concurred in the Court's judgment, thus creating a five-Justice majority. On the other side, Justice Stevens dissented, joined by Justices Ginsburg and Sotomayor, arguing that the land transfer was a violation of the Establishment Clause. Justice Breyer also dissented, albeit on technical grounds of injunction law.

Buono was decided on narrow grounds concerning the private ownership of the land in question. It is clear from the opinions that land transfers in general will not usually decide Establishment Clause issues. That posture of the case kept the fundamental issue from being decided: can government use a cross to honor the dead in war?

That basic issue is clear enough. The cross became a traditional symbol of honoring the dead 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,

As Justice Kennedy put it in *Buono*, “a Latin cross is not merely a reaffirmation of Christian beliefs. It is a symbol often used to honor and respect those whose heroic acts, noble contributions, and patient striving help secure an honored place in history for this Nation and its people. Here, one Latin cross in the desert evokes far more than religion. It evokes thousands of small crosses in foreign fields marking the graves of Americans who fell in battles, battles whose tragedies are compounded if the fallen are forgotten.”

Title: None

Date: 2010-05-04T16:32:00.000-04:00

Title: A Cross is More than a Cross

Date: 2010-05-04T16:40:00.004-04:00

5/4/2010—Stanley Fish asks the obvious question in the New York Times online blog. If the Establishment Clause requires government neutrality toward religion, how can religious images be used for public messages? Fish says a cross cannot have two meanings. It cannot be both a sectarian symbol of Christianity and a universal symbol of the dead in war. But, why? This cross was a WWI memorial. Has Fish never read the poem, In Flanders Fields: In Flanders fields the poppies
blow
Between the crosses, row on row, Does Fish imagine the poet was referring to religion? To Christianity? Fish says we should put the religion card on the table. How about putting the Fish card on the table? He is a flat, wooden, and sour post-modern consciousness that does not want symbols of deep meaning in the public square. The secularism I want to live is happy to sometimes share a poetic space with traditional religious images. That secularism is not afraid of a little symbolic continuity. Sure, we would not choose a cross to honor all the dead today. We are more conscious of our pluralism. But in WWI, they often did. So what and why not?

Title: Is Hallowed Secularism Magic Realism?

Date: 2010-05-07T07:41:00.003-04:00

5/7/2010—It has occurred to me that perhaps hallowed secularism could be thought of as a mild form of “magic realism”, though without the fantastical elements. This thought returned upon reading the review in the New York Times Book Review section of Isabel Allende’s new novel, *Island Beneath the Sea (All Souls Rising)*. The reviewer, Gaiutra Bahadur referred to magic realism, which is often associated with Ms. Allende. Bahadur reminds the reader that the term was coined not for novels but painting: “It was an art critic who coined the term 'magic realism,' to describe a new wave of painting in 1920s Germany. The work departed from the moody Expressionism of the day, emphasizing material reality even as it unlocked an elusive otherworldliness in the arrangement of everyday objects.” That seems to me what the hallowed secularist is seeking: the elusive sense of more that resides throughout life and which does not depend in the slightest on the supernatural.

Title: Why Am I Being Told That Elena Kagan's Sexual Orientation is Irrelevant?

Date: 2010-05-14T08:29:00.003-04:00

5/14/2010—I don't know whether Elena Kagan is a lesbian, but I sure hope so. Of course, if she is, it would be better if the Supreme Court's first (actually who knows?) homosexual were open about it, but the closet is better than nothing. Julia Baird, in Newsweek, says we should "stop talking" about it. But she is wrong. The reason for wanting a gay person on the Court (I don't mean there should be only one, of course) is equal parts representation and perspective. In terms of representation, the Court is a governing institution. It ought to be broadly representative. There should even be a Protestant on it. In terms of perspective, even Clarence Thomas brings his perspective to bear in free speech cases involving racism in a way that is important for both the other Justices, the legal profession and the public to hear. It was just last fall that the needed perspective of women on the Court was brought dramatically to bear. Here is the story from USA Today Joan Biskupic, "Ginsburg: Court Needs Another Woman," 10/5/2009: "Three years after Justice Sandra Day O'Connor left the Supreme Court, the impact of having only one woman on the nation's highest bench has become particularly clear to that woman — Ruth Bader Ginsburg. Her status as the court's lone woman was especially poignant during a recent case involving a 13-year-old girl who had been strip-searched by Arizona school officials looking for drugs. During oral arguments, some other justices minimized the girl's lasting humiliation, but Ginsburg stood out in her concern for the teenager. 'They have never been a 13-year-old girl,' she told USA TODAY later when asked about her colleagues' comments during the arguments. 'It's a very sensitive age for a girl. I didn't think that my colleagues, some of them, quite understood.'" "Well, I know the Justices don't understand what it is like to be gay. It's time they heard about that.

Title: Steve Martin Sings the Blues

Date: 2010-05-19T14:48:00.001-04:00

5/19/2010—A very funny YouTube video features Steve Martin singing “Atheists Don’t Have No Songs” (link to Religion Dispatches). The song is hilarious, but it makes an important point that atheists only think is funny. According to the song, religious people have all this beautiful music and rewarding activity, but atheists only sing the blues, have their weekends free and watch football in their underwear (they also have rock n roll). Well, what do atheists have, or for that matter what do secularists like me have? I talk about this in the book *Hallowed Secularism*. Yes, it is nice not to have to go to services, but where does spiritual renewal come from in a secular way of life? Of course, such renewal could come from elsewhere. Religion does not have a monopoly on the spirit. But where does it actually come from? Doing nothing is not an improvement on religion. But go farther. What about repentance? Obviously secularists are sinners just like everybody else. By sinner here, I don’t mean to reference some particular sin, such as adultery. I mean the gray dullness of spirit that drags us all down. I mean the selfishness of everyday life. I mean the unclarity that fogs all our actions. How does the secularist repent of such sinful structures? Perhaps it was not the law that kept Judaism going all these years. Perhaps it was the Day of Repentance, Yom Kippur. If so, secularism is a dead end. There is a new thought. Even though God does not exist, secularism still might prove a dead end, an end, that is, that deadens human life.

Title: What About Israel?

Date: 2010-05-23T20:03:00.002-04:00

5/23/2010—Peter Beinart's heartfelt plea for a return to liberal Zionism in the New York Review of Books—The Failure of the Jewish Establishment—is causing a stir in American Jewish circles. There is evidence that young American Jews, especially non-Orthodox Jews, have little attachment to the State of Israel. Beinart believes that the reason for this is the growing anti-Palestinian fervor in Israel. The American Jewish establishment has defended Israeli policies and prevented any domestic American criticism of Israel by invoking the specter of anti-Semitism, even though actual Israeli policies belie the liberal commitments of these same American Jewish leaders. In Beinart's memorable phrasing, "For several decades, the Jewish establishment has asked American Jews to check their liberalism at Zionism's door, and now, to their horror, they are finding that many young Jews have checked their Zionism instead." What makes Beinart's plea so stirring is that he obviously cares a great deal about both Israel and the original universalism of Zionism. He is afraid of both likely possibilities: that his children will not care about Israel or that they will care about Israel and will carry ill-will toward the Palestinian people. He yearns for a model that respects both Israel and the legitimate rights of Palestinians. I have never criticized Israeli policies, basically because I thought it cowardly to do so from the safety of America. Now that I no longer consider myself Jewish, my reasons for not doing so are even stronger. Nevertheless, at a certain point, the pressure that American Jewish organizations bring to bear against critics of Israel prevents intelligent American policy from being made. Needless to say, that is an American rather than a specifically Jewish problem. But the calls in Israel for denying citizenship to Israeli Arabs and promoting loyalty oaths brings to the fore the fundamental question whether a religious state can ever be genuinely democratic. The problem in Israel is simple demographics. Non-Jews are multiplying faster than Jews. Eventually, something has to be done or the State will not be Jewish anymore. In that context, the apparent racism of some recent Israeli proposals is understandable, if not admirable. Far be it from me to say that Israel should not be a Jewish state. But if the tension between liberal values and official government religious commitment should turn out to be inherent, then the dilemma Beinart points to will not be solvable no matter how much good-will people have.

Title: The Tenability of the "Intermediate Position"

Date: 2010-05-27T21:34:00.003-04:00

5/27/2010—A while ago, I published an essay as part of an academic roundtable on Charles Taylor's book *A Secular Age* in *Expositions*, the *Interdisciplinary Studies in the Humanities Magazine* published by the Villanova Center for Liberal Education. My contribution was entitled "Charles Taylor and the Future of Secularism". A version of the essay can be found [here](#). The point of my essay is that Taylor believes we have essentially two choices as a civilization: either we return to some rather traditional form of theism or we embrace a materialism or exclusive humanism that is destructive of human flourishing. According to Taylor, an intermediate position, one that approaches or seeks transcendence from within immanence, is not viable. (606). And despite the fact that his book is quite inconsistent in its arguments, I believe that this reflects Taylor's fundamental belief. In a way, all my work is an attempt to show that Taylor is wrong about this. Jerome Stone's book *Religious Naturalism Today*, and indeed all of his work, reflects the same commitment as mine, that something good, true, beautiful and lasting is possible in a purely natural cosmos. And there are many others, some of whom I cite in *Hallowed Secularism* and my new book, *Higher Law in the Public Square*. Taylor in his way is an ally of Christopher Hitchens and the other New Atheists. For they also want to deny an intermediate position. They also believe in a sharp distinction between the religious and the nonreligious. But what if there is no such boundary? What if there is just life and experience? What if we all, religious and nonreligious, are describing the same reality in different terms?

Title: The Future of Secularism

Date: 2010-05-30T21:09:00.002-04:00

5/30/2010—Russell Shorto's article in today's New York Times Magazine, *The Integrationist*, illustrates the paths with regard to religion that are today facing secularism in the West. Shorto describes the parliamentary campaign in The Netherlands, in which Labor Party leader Job Cohen might emerge as the next Dutch Prime Minister. Cohen was raised in a secular Jewish home. But as mayor of Amsterdam Cohen fully engaged the Muslim community and engaged after the murder of filmmaker Theo van Gogh in what he called the "peace script". Shorto describes the controversy as follows: "Depending on whom you talk to, Cohen's response to the murder either helped bring about the beginnings of a new idea of society or it has amounted to misguided appeasement of dangerous forces. He initiated the peace script; the on-the-streets information-gathering indicated that Muslim areas of the city were radicalizing. He held a series of public meetings with ethnic and religious communities, and in these he made use of the city's Moroccan alderman, Ahmed Aboutaleb. 'We operated as a kind of couple,' Aboutaleb told me recently. 'It was a kind of city therapy.'" Cohen agrees that immigrants must become part of Dutch society. But he apparently thinks that Islam is not the issue. The issue is social engagement, without which a small minority in the Muslim community will become radicalized. This means that Cohen is willing to support Muslim institutions, such as schools and conservative mosques. This approach is opposed by the anti-religious left. Despite her recent call for Christianity to oppose Islam, I count Ayaan Hirsi Ali, the courageous former member of the Dutch Parliament, who would doubtless have been the next victim had she not fled to the United States, as among that anti-religious group. Shorto quotes her response to Cohen's efforts: "I don't think the plan works," she told me. "The problem is that it assumes you are dealing with European peoples. The most essential factor is that Islam is a conquering philosophy. It's interesting that the only identity that Muslims have in Amsterdam, and in other European places, is as a vulnerable population. And because of that people feel they have to understand them, respect their idiosyncrasies, support them with state money and all will be well. It will not." This is the fundamental disagreement. Is religion a dark force to be banished from public life or is it a positive force? Is religion a relic in a scientific age or is it a source of opposition to existing hierarchical power? Cohen is not a believer but he is obviously not opposed to a public role for religion. He is not preoccupied by the separation of church and state. I think Cohen is the future for secularism and not Ali. And I think this is the path for peace.

6/3/2010—A recent story is again raising the question of the role of religious belief in American politics. In the Los Angeles Times, Tim Rutter criticizes the group Better Courts Now for running a slate of conservative judicial candidates in the San Diego Primary. Here is how Rutter describes what is happening: "[F]our sitting judges are being challenged by candidates hand-picked by an organization called Better Courts Now and backed by a coalition of evangelical pastors, an El Cajon gun store and opponents of reproductive choice and marriage equality. The organization was established by the late Rev. Don Hamer, who until his death two months ago was pastor of San Diego's Zion Christian Fellowship. He took a particularly active role in the campaign for Proposition 8 and, during the presidential election, produced a series of videos purporting to prove that Barack Obama was a secret Muslim." Three of the four sitting judges have been given the highest possible rating by the local bar association while three of the four challengers have been rated unqualified (the fourth had too little of a legal record to be rated at all). The challengers say that the courts do not reflect American values. Rutter writes that it is pretty clear what those values are by looking at the Zion Christian Fellowship website: "The reason for our present dilemma is not ultimately assertive and demanding homosexuals, or biblically ignorant judges, or even a scripturally devoid electorate. It is ultimately a spiritually impotent church, which ... allowed and caused ungodly persons to be elected, who in turn selected unbiblical judges." Now I have to say that these criticisms of Better Courts Now ring particularly hollow from people who supported judicial action to require recognition of gay marriage in California. As Justice Scalia has said on many occasions, if judging is value judgment, how can you criticize people for wanting their values to be represented? My only dispute with Justice Scalia is his pretense that his judging is not value judgment, but is objective. (Just where did the framers grant constitutional rights to corporations?). Or to put this another way, what difference does it make that the people behind these challengers are religiously motivated? What if they opposed abortion and gay marriage and supported gun rights for reasons having nothing to do with religion? Would that make this effort any more or less legitimate? Rutter's criticism is another example of secularists trying to delegitimize the efforts of voters with whom they disagree on policy grounds to bring change through the ballot box. I wouldn't vote for these judicial candidates either, but not because they are religious.

6/6/2010—Former Justice David Souter gave the Harvard Commencement talk this year and his subject was the nature of judicial interpretation of the Constitution (text here). Specifically, Souter was responding to the critical refrain that liberal judges “make up” the law when they announce rules that cannot be found in the Constitution. Souter made a very good case that what he called the “fair reading model has only a tenuous connection to reality.” The basic problem is that the Constitution is a “pantheon of values” that often conflict and that usually have to be interpreted in a current context that has changed since the text was originally written. Souter went further than that, locating the dispute between two different approaches to interpretation in the difference between “a basic human hunger for the certainty and control that the fair reading model seems to promise” and Souter’s “belief that in an indeterminate world I cannot control, it is still possible to live fully in the trust that a way will be found leading through the uncertain future.” Souter believes the latter is closer to the framers’ understanding of what interpretation is. I am in basic agreement with Souter, I guess, though I can hear Justice Antonin Scalia pointing out that when announcing a value that is not “in” the Constitution, the Judge exercises quite a lot of control. Nevertheless, the important thing for me is how secularists tend to ignore Souter’s position when the issue is the establishment of religion. When we get to that subject, all you hear is quite determinative language and history and an argument that the Establishment Clause can only mean one thing.

Title: Whose Fault is the Florida "Right to Witness" Law?

Date: 2010-06-10T19:31:00.002-04:00

6/10/2010—Word is that Florida Governor Charles Crist signed a school-speech bill that prevents school districts in Florida from infringing the "right" of students, teachers and staff from the exercise of their free exercise of religion rights. (story here) Of course what is going on is the attempt by school districts to avoid violating the Establishment Clause of the Constitution by prohibiting employees from engaging in religious activities on school grounds. Those efforts are targeted in this bill. We have gotten to this weird point because of over-enforcement of the Establishment Clause. When the U.S. Supreme Court held that school districts could not arrange for prayer, even nondenominational prayer, during high school graduations, football games and other events, school districts simply retreated and pretended that the resulting prayer activity was "private" speech by students and teachers etc. Of course this private speech was not private at all. In pure free speech cases, the Supreme Court recognizes that everything that goes on at public school takes place at the behest of the school district. So, ironically, students and teachers and staff have almost no constitutional right to speak; they only have a right to pray. We need to acknowledge that school districts can have something to do with prayer so that the fiction of private speech can be dispensed with.

Title: Is President Obama Committing Treason?

Date: 2010-06-14T21:24:00.001-04:00

6/14/2010—A slight diversion today from themes of religion. Today, NPR repeated something that I had heard before, but had not appreciated. In a report on the effects of medical marijuana, the report said that the Obama Administration had made it clear that it had no intention of enforcing federal laws prohibiting the possession of marijuana in states that permitted its use. Now, there is currently on the books perfectly valid federal law prohibiting the use of marijuana, for medical purposes or otherwise. These statutes make no exception for states that wish to opt out of this federal law. In other words, these state statutes permitting medical use of marijuana are completely invalid. There is a name for the attempted use of state law to limit the effect of valid federal law. It is called interposition. It was the term used in 1828 by John C. Calhoun to allow South Carolina to challenge the prevailing federal tariff. President Jackson threatened the use of force to enforce the tariff and the matter was compromised. I support the legalization of marijuana so I am not troubled by medical marijuana. But the same theory that allows states to opt out of valid federal law allows states to opt out of valid federal medical reform. States have no right to invalidate federal law. This was finally decided, I guess, at Gettysburg.

Title: Do Christian Groups Have the Right to Hire Only Christians?

Date: 2010-06-17T16:59:00.001-04:00

6/17/2010—Bobby Ross has written a story for Christianity Today reporting the escalating issue of religious discrimination in hiring by faith-based organizations (Faith-Based Fracas). The story reports that World Vision is being sued by three former employees who, though apparently self-confessed Christians, were fired because do not believe that Jesus Christ is fully God. It is just the sort of story that drives secularists crazy. World Vision receives taxpayer funds for various services it performs. Candidate Barack Obama seemed to say that such organizations should have to follow federal anti-discrimination laws. The legal situation at the moment seems to be that the Constitution would allow the government to force religious service providers to hire in a non-discriminatory fashion, but that the Title VII of the Civil Rights Act of 1964 contains a statutory exception for religious service providers. Even though non-discrimination seems obvious to the non-religious, I tried to explain in my new book why that might not be appropriate. Religiously provided services in all social welfare fields is a matter of religious witness to the truth of that particular religion's message. So, for example, a Christian group that helps addicts recover from addiction is testifying to the power of Christ to change lives. And something similar would be the case with service providers in other religious traditions. The foundation of religious witness explains why the faith-based provider might insist--I don't know whether they all insist, but some do--that the entire organization must consist of Christians. A non-Christian may of course be competent at providing social services, but, by definition, a non-Christian cannot witness to the power of Christ. In fact, participation by non-Christians in the faith-based group would tend to undermine the claim of Christian witness because then it might be said that anyone, and not just Christians, might behave the same way with the same power for good. Rather than think of the matter as discrimination at all, it would be better to think of this hiring practice as similar to the need of the organization to identify itself as Christian. Just as there would be no point in the program if no one knew that it was Christ's representatives who were providing the service, the group could also not self-identify if it were not composed exclusively of Christians. Since even with the receipt of public funds, faith-based providers are permitted to identify passively as Christian, it ought to follow that even with the receipt of public funds, such groups may restrict hiring to Christians as well.

Title: All Too Human

Date: 2010-06-21T20:38:00.003-04:00

6/21/2010—The New York Times magazine story on June 13, 2010 entitled “Merely Human? That’s So Yesterday” would have been frightening if it had not been so silly. The article told of “the arrival of the Singularity — a time, possibly just a couple decades from now, when a superior intelligence will dominate and life will take on an altered form that we can’t predict or comprehend in our current, limited state. At that point, the Singularity holds, human beings and machines will so effortlessly and elegantly merge that poor health, the ravages of old age and even death itself will all be things of the past.”The idea has something to do with implanting chips in our brains or using robots directed by chips in our brains, etc. What’s funny about all this is that “some of Silicon Valley’s smartest and wealthiest people have embraced the Singularity.”Well, I guess if I were really rich and really in love with myself, I would fool myself in the same way. But there is this. I am only my brain. I am not any circuitry apart from it. When my body dies, so do I. We cannot, as the guru of the movement, Raymond Kurzweil believes, back up our brains to survive death. Kurzweil apparently believes he can achieve a “partial resurrection” of his late father that way. If he actually believes that, I feel sorry for him. If he is just scamming the rich, well, even a Silicon Valley geek can be stupidly mesmerized by the promise of technology.

Title: Publicity Description of Higher Law in the Public Square

Date: 2010-06-24T17:44:00.002-04:00

6/24/2010--My new book, *Higher Law in the Public Square*, will be published spring 2011 by Indiana University Press. Here is a description:

Higher Law in the Public Square proposes that the government may use religious images to express higher law values without violating the Constitution. Higher law is the tradition that justice and morality are real and not just opinion or human invention. Government may endorse higher law and may use religious symbols like the Ten Commandments and the word God to do so. Ten Commandments Displays in parks and public places are constitutional, as are the words “under God” in the Pledge of Allegiance and “In God We Trust” as the national motto.

The book does not endorse religious belief. The author is a secularist and higher law is not religion. The commitment to objective values is shared by religious believers and many atheists, who both reject the current cultural malaise of relativism and post-modernism. Sharing in the expression of higher law unites believers and non-believers across current culture war boundaries.

The higher law proposal in this book accomplishes several goals previously thought incompatible.

- It harmonizes caselaw that currently requires government neutrality toward religion while inconsistently permitting religious symbols to remain in the public square; the religious symbols stay.
- It reassures atheists, whose insistence on government religious neutrality has been losing ground politically; government religious neutrality is maintained.
- It attracts religious believers, who have always agreed that religious imagery expresses the higher law tradition; religious symbols gain a new universality.
- It allows religious liberals to interpret traditional religious images in a nonorthodox way; God can stand for justice and truth.
- It creates the potential for a new political alignment uniting atheists and believers by eliminating the irritant of calls for cleansing the public square of religious images; a more potent left than at any time since the Depression.
- It reorients secular thinking toward the affirmation of meaning in human life; atheism accepts religious images in that spirit.

Religious images have always served a double role. They have always symbolized higher law as well as denominational claims. The religious believer need not give up her strictly religious interpretation of these symbols. Only the government that uses these symbols must plausibly claim that they reflect the higher law. As long as that is done, their genuinely religious meanings are legally irrelevant. The Ten Commandments stand for the proposition that justice and injustice are real—the same commitment that universal human rights represent. A nation under God is one that insists that even majority rule is not the final arbiter of right and wrong—the same commitment humanity made at Nuremburg. Religious images understood in this way are not universal—there are skeptics—but these images are potentially unifying.

Title: The Fight Over Jesus' Name

Date: 2010-06-27T20:26:00.003-04:00

6/27/2010—In April, two years after Democratic Governor Tim Kaine ordered Virginia State Trooper chaplains to engage only in nonsectarian prayer, current Republican Governor Bob McDonnell reinstated their right to pray in Jesus' name. (story here). At the same time, U.S. Rep. Michelle Bachman (R.-Minn.) introduced an amendment to the Defense Authorization Bill that would allow U. S. military chaplains to pray according to their conscience rather than engage only in nonsectarian prayer outside actual religious services, as Pentagon regulations generally require (story here). All this comes after the dismissal of a navy chaplain in 2007 and a congressional response (story here). What is going on? I don't know the details of the current Pentagon rules, but I can describe the legal issues generally. First, there is no Establishment Clause issue in having chaplains as government employees. As long as soldiers are not forced to attend religious services—there is some question about that—the position of chaplain is just a way of accommodating the desire of many soldiers for spiritual help while in the military. On the other hand, the ban on the use of Jesus' name is basically neither a free speech nor a free exercise issue, despite what supporters of the use of Jesus' name suggest. As long as the military is not censoring chaplains in actual worship services nor restricting their religious speech while off duty, there is no individual right involved. The speech of chaplains at military events is government speech. If you doubt it, ask what happens if a chaplain decides to wear a swastika for religious reasons. The reason for all the confusion is the incoherence of Establishment Clause jurisprudence. If all religious speech is unconstitutional, then nonsectarian prayer is no better than invocations of Jesus. But if generic references to God are ok, then one can challenge references to Jesus in the name of religious pluralism. This, as I understand it, is basically the position of the military. No one thinks a Christian chaplain should be permitted, upon coming upon a wounded or dying Jewish or Muslim soldier, to say, "let me tell you about Jesus."

7/1/2010—On Monday, June 28, the United States Supreme Court decided *Christian Legal Society [of Hastings Law School] v. Martinez*, holding 5-4 that a law school could refuse recognition of the CLS on the ground that the organization does not comply with the school's nondiscrimination policy. As reported in the media, the CLS does not allow gay to join. This is true but is not quite the holding of the case. The fact is, CLS does not allow nonChristians to join. It is true that the CLS defines for itself whom it considers a Christian and that in its view you cannot be a Christian and engage in homosexual conduct (or any extramarital sexual conduct), but the actual holding of the case does not seem to involve any such requirement by CLS. As I read the case, CLS would not be permitted by the law school to exclude nonChristians however defined. It might seem to the average person quite ridiculous to say that the Christian Legal Society cannot exclude Jews, Hindus, Muslims, Buddhists and Atheists. I hope it seems ridiculous. This case should obviously have been decided on free exercise of religion grounds. This policy fundamentally interferes with the right to practice religion. The reason not one Justice would have decided the case on free exercise grounds is that in 1990, in an opinion written by Justice Scalia (of all people), *Employment Division v. Smith*, the Court decided that generally applicable laws that do not specify religion cannot violate the Free Exercise Clause. It was an absurd decision and now we see its consequence—a government requirement that a religious organization must admit nonbelievers does not violate the Free Exercise Clause. There were free speech issues in the CLS case and maybe the majority was right in part in the particular posture the case was in. But the real point is, what happened to free exercise?

Title: Happy Fourth of July

Date: 2010-07-04T12:41:00.001-04:00

7/4/2010—The Fourth of July is a good day to consider just why I am so certain that adoption of traditional religious language must be permissible under the Establishment Clause. Among the most aggressive secularists, there is an uneasiness with the Declaration of Independence and a desire to shift attention to the supposedly “godless constitution”, which is then said to constitute a real, legal basis for the public square rather than the nonlegal character of the Declaration. There are several problems with this approach. For one thing, the Declaration of Independence, as is clear today especially, is America’s founding document, not the Constitution. This is true both literally—we were a country before we adopted the Constitution, under the Articles of Confederation—and even more true politically. No one reads the Constitution on the Fourth of July and not just because of the date. It is the Declaration that set the world on fire, not anything later. To put it bluntly, we fought the Civil War to vindicate the Declaration of Independence’s promise of equality despite the Constitution’s compromise with slavery. Another problem with this approach is that both the Declaration and the Constitution are natural law documents. Natural law does not require God but it does require that there be something real about values that can be symbolized by the word God. So let us all read the Declaration of Independence today with real conviction and not a begrudging spirit. Yes, human rights are universal and inherent, just as Jefferson thought. And yes, there still is no unique subjective will separate from the universe. There is no God or Creator as such. Nevertheless, God and Creator are good symbols for universality and inherence. Our rights are not subject to the whims of men and women. That is the message of the Fourth of July.

Title: Seeking "Common Ground": A Secular Statement

Date: 2010-07-08T19:53:00.003-04:00

7/8/2010--The following is a precis of a paper I am submitting to law reviews. It takes Higher Law in the Public Square a little deeper. The quotation below comes from Justice Anthony Kennedy's majority opinion in *Lee v. Weisman*, the decision that prohibited prayer at public high school graduations. In context, Justice Kennedy was considering the constitutionality of "nonsectarian prayer," which he apparently defined as prayer that expresses a conviction supporting morality that transcends human invention. His conclusion was that while government may not suppress such prayer, neither may government itself undertake it, through, in the case itself, inviting clergy to a graduation ceremony and assisting in the creation of the prayer through guidelines given to the speaker.

"If common ground can be defined which permits once conflicting faiths to express the shared conviction that there is an ethic and a morality which transcend human invention, the sense of community and purpose sought by all decent societies might be advanced."

Religion has its uniqueness, which is feared in the Establishment Clause and protected in the Free Exercise Clause. But religion is also part of a larger tradition that transcends religion and includes much of philosophy and political theory. That tradition was characterized by C.S. Lewis as the "doctrine of objective value". It has been called by other names, such as civil religion, higher law, natural law, even religious naturalism. That tradition may be established by the government without violating the Establishment Clause and its practice is protected more by free speech than by free exercise. As the reference to "their Creator" as the source of rights in the Declaration of Independence illustrates, that tradition can be symbolized through religious imagery. That tradition is currently promoted through displays of the Ten Commandments and public references to God. But the tradition is not religion. It shares common ground with religion.

The failure to recognize this tradition as separate from religion, and to celebrate it, has led to numerous mistaken commitments. It has led the New Atheism toward relativism and even nihilism. It has obscured the natural law aspect of the Constitution exemplified in the Ninth Amendment, a natural law orientation that is anything but "godless". It has caused the Supreme Court to overlook the "common ground" of values clearly present in American society and history. It has misled Justice Scalia into promoting the worship of the biblical God, when other formulations of God-language would alleviate constitutional disputes about religious imagery without sacrificing societal thanksgiving and even praise. In general, this failure has prevented the celebration of common meaning between religious believers and many nonbelievers.

Use of God-language and the Ten Commandments to promote this tradition does not lead to debased, "bleached faith" because religious believers agree that there is common ground with this tradition, although for the believer it is religion that represents the larger tradition and it is the nonbelievers who share only partly in the Truth. In Christianity, for example, the "hidden Christian" and the human conscience are said to represent common ground with nonbelievers and non-Christians.

The recognition of this common ground will not only clarify and resolve many Establishment Clause issues, but will allow formation of new political coalitions, as secularists and religious believers come to value their shared commitments. Such recognition will also deepen secularism itself and reorient it to the perennial questions of human existence.

Title: The Power of Religion

Date: 2010-07-11T09:01:00.000-04:00

7/11/2010--Ever wonder why religion has such a hold on people and whether there is any way to do away with religion? Here is part of the answer from Rivka Galchen appreciation of Jorge Luis Borges in the New York Times Book Review on Sunday, 6/27/2010: [describing Borges' relationship with the characters in Robert Louis Stevenson's *The Wrecker*] "there is a vast unwritten book that the heart reacts to, that it races and skips in response to, that it believes in. But it's the heart's belief in that vast unwritten book that brought the book into existence; what appears to be exclusively a response (the heart responding to the book) is, in fact, also a conjuring (the heart inventing the book to which it so desperately wishes to respond)." But this is more than a reader's reaction to a book. It is our relation to religion. But this is more than our reaction to religion. It is our relationship with God. This is Pascal, no? There is another way of seeing this power of religion. The question has often been asked, why did not more Germans oppose Hitler? Some did after all. In the New York Review of Books, Adam Hirsch quotes Hans Mommsen to the effect that what was needed was not so much personal courage, as an "alternative utopian vision". That is why Communists and Christians opposed Hitler when so many of Germany's leading citizens did not. If we are not going to be religious believers, what are we going to find to fill the large spaces in our hearts? If such spaces are not filled, they will just shrink.

Title: The Apostate

Date: 2010-07-14T14:01:00.002-04:00

7/14/2010--Lauren Winner reviewed Eric Lax's book, *Faith, Interrupted*, in the Sunday New York Times on July 11. (review [here](#)). Lax is writing about the Episcopal faith he has lost. Winner calls it a "love letter to a faith he has lost". Why did Lax lose his Christian faith? For the same reasons many of us have—he actually thought about the core teachings, in his case the Nicene Creed—and no longer found them "plausible". Nevertheless, also like many of the rest of us, Lax continues to live out his earlier religious values. He still tries to follow Jesus' example. None of this causes him to criticize his religious friends. He envies them (also like many of us). But then the review takes a critical turn, not in tone but in substance. Here is the key paragraph: "Yet Lax does not seem interested in cultivating a spiritual life shot through with doubt. He doesn't want an ambivalent (or, one might say, mature) faith; rather, he writes, recalling the aftermath of his parents' deaths, "what I wanted to have was what I'd always had, but the faith I had accepted without question and could articulate with catechismal rote could not be recaptured." Of course, many of us come to a place where such faith is neither possible nor even desirable; I suspect my own small Episcopal church would be largely empty on Sundays if anyone who ever questioned the Creed, anyone whose faith life included seasons of aridity, stayed home." Winner's criticism, and it is an implied criticism of Hallowed Secularism as well, is that those who leave religion just because we cannot believe in a fairy tale are unwilling to do the hard work that those who stay, like Winner, do. She puts it this way at the end of the review—"What kind of faith might be possible even after the verities of childhood have passed away?" But Lax's desire for a faith he can actually believe in is not a refusal to grow up. Earlier Christians actually believed all the stuff of dogma. It made sense to them. They had their crises of doubt of course. But their crises were about something that could be true. It is not doubt to reject something ridiculous. It is plain sense. Let me illustrate it this way. What if I believe that the world is meaningful and good? Then a terrible tragedy afflicts me. That causes me to doubt whether the world is meaningful and good. But I could one day regain my faith because my earlier faith could be true. In Lax's case, as in mine, the core teachings of monotheism can't be true. For one thing, the natural laws of science hold the highest ontological position. There is no other realm. Now, maybe Winner only has doubts. In that case, of course she stays in the church and good luck to her. But what if she is in the same boat as Lax and me? Then I would have to say of Winner, that staying in church can just as easily be a way of avoiding a mature faith as leaving.

Title: Is Human Life a Tragedy?

Date: 2010-07-18T16:22:00.001-04:00

7/18/2010—The American sociologist Peter Berger once wrote that human life is a tragedy without a belief in God. Note that this observation is not strictly speaking an argument for God's existence. It might just be that human life is a tragedy. I was reminded of this observation by a review in today's New York Times book review: David Kirby's review of Maxine Kumin's new book of poetry, *Where I live*. (review [here](#)). Kirby remarks on Kumin's view of her long and satisfying marriage: "The title of the final poem, 'Death, Etc.,' is wittily misleading. Here Kumin starts out with a characteristically satisfied look at a marriage of many years that will nonetheless end with one partner left alone, then swerves toward a startlingly grim conclusion when she says 'we try to live gracefully' but 'in truth we go forward / stumbling, afraid of the dark, / of the cold, and of the great overwhelming / loneliness of being last.' Hey, what happened to the stoicism? Maybe this is Kumin's way of pointing out the real importance of her calling. Because it's not going to end well, folks: Hitler killed his millions, and one of us will be broken by the death of the other. Between now and then, this book says, there's poetry." I don't know why Kirby feels the need to make a joke about this. Every time we experience happiness, we tend to remember that the moment we are experiencing is fleeting. Soon everything will be different. The ones we love will be old or dead and we will be as well. I hear atheists say, I don't need fairy tales to live a good and satisfying life. Maybe not, but that does not mean our lives are not a tragedy. We know we will die. We know that nothing we value will last. Just watch the movie *A League of Their Own* to experience this bitter quality. This does not mean humans invented God to remove the sting of life. It could be that humans found the senselessness of oblivion too overwhelming to admit that it could be the last word. Perhaps it would be truer to this spirit to say God must exist. For those of us who do not believe, we must always look death directly in the face. We must hold to all of our beliefs without any false hope. We will die. Everything will eventually pass away.

Title: Can Religious Believers Be Good Democratic Citizens?

Date: 2010-07-22T03:38:00.001-04:00

7/22/2010--For some reason, the Journal of the American Academy of Religion chose to publish in its current, June 2010 issue, the transcript of a program from 2003 discussing Jeffrey Stout's book (or thought since the book came out in 2004) Democracy and Tradition. The fundamental issue it raised was the relationship of religion to democracy. Stout was of the view that for different reasons both religious traditionalists and liberal secularists argued that religious belief and democracy are incompatible—a view Stout contested. The issue comes down to the source of norms. If the source of what we ought to do as a nation comes from God's will rather than from democratic agreement, then the religious believer is bound to obey God rather than men. This discussion is rather dated. It was possible before the 2004 Presidential election to debate whether religious believers have a role in democratic life. But then they re-elected George Bush, thus reminding everybody that religious believers can do whatever they want because they are the majority. But the more fundamental issue is whether there is any source of norms that is objective. Or, to put the matter bluntly, can the majority be wrong? I don't believe in God but I still think the majority can be wrong. So, how am I in principle any different from the religious believer? Many secularists believe in objective morality, or think that they do. Consider the tradition of fundamental and universal human rights. Trammeling these rights is wrong regardless of numbers of voters. I am beginning to suspect that the anti-religion position by some secularists has little to do with religion and much to do with ontology—the nature of the real. If you think right and wrong are real, you are on the religious side, regardless of your religious beliefs.

Title: There will be a vacation break in Hallowed Secularism until 8/5/2010

Date: 2010-07-24T22:18:00.001-04:00

Title: The Lessons of Peru

Date: 2010-08-06T05:07:00.003-04:00

8/6/2010—I wish my readers could watch the sun come up at Machu Picchu, as I was privileged to do last week. The wisps of clouds catch fire as the burning disk peeks over the surrounding mountains, blinding the viewer until finally the Temple of the Sun is illuminated. The feeling that I experienced was not simple awe. When I visited Niagara Falls, the power of the water was enough to refresh me. Machu Picchu is different. Machu Picchu is a human creation that somehow participates in the power of the sun. I felt the sacred energy of the place in its graceful placement of exactly carved stones paying homage to the sun. The Inka were not democratic. Only a handful of persons would ever see Machu Picchu, which was so isolated in the Andean mountains that when it was abandoned, there were not even rumors to alert the Spanish to its existence. But, as Daniel Quinn writes in his novel *Ishmael*, at the time of the European invasion, the peoples of the Americas were conducting experiments in the creation of what we would now call sustainable, large scale civilizations (there were nine million people in the Inka empire). The empire was not democratic, but neither was it brutal and exploitative. As a functioning social system, the Inka world seems to compare well to the European systems that replaced it and all other indigenous societies. So, when at Machu Picchu, Cusco, Puno, the sacred valley, the desert outside Paracas, I experienced the power and spirit of the world of native peoples, I was not romanticizing a hunter-gatherer existence, but observing the remnants of a vibrant, sophisticated and spiritually alive way of life. It is a way of life that the people of Peru are today reclaiming for themselves. Unlike the French and English, the Spanish actually did mix with the native people they conquered. Most Peruvians are mixed descendants of the builders of these sites. Many people I met in Peru intend to revitalize the Inka world in a way that participates in the modern global era. That way of life was not supernatural exactly. The Inka worshiped the snake, puma and condor, but as representations of natural powers. (That is not exactly right since the condor represented life after death). I remember one day watching a carving of a puma for an hour and seeing it almost move. The great flaw in modern secularism is its inability to imagine a spiritually refreshing, economically equitable, environmentally sustainable alternative to today's consumption capitalism. We cannot be Inka but they can remind us that there once was such an alternative.

Title: You Can't Defeat Islam

Date: 2010-08-08T10:21:00.004-04:00

8/8/2010--The story in today's New York Times about opposition to mosques around the country (story here), especially at the twin towers site in NYC, illustrates more than simple unconstitutional prejudice (though it is that and the Republican Party better be careful to avoid embracing it). Based on a series of books and speakers "opposing" Islam, it is part of a strange misconception by people smart enough to know better that Islam itself is flawed and can somehow be defeated. You can include here Paul Berman (The Flight of the Intellectuals) and Ayaan Hirsi Ali (Nomad: From Islam to America), both reviewed in the August 19 edition of the New York Review of Books by Malise Ruthven (Righteous and Wrong). This is not a matter of refusing or fearing to criticize Islam. It is just a recognition of two facts: first, Islam is a 1500 year old religion practiced by one billion people. It is not going anywhere. Second, there is nothing fundamentally wrong with Islam. This last point is hard for people to grasp, especially people like Ali who have been persecuted by Muslim fanatics and have bravely resisted. But there cannot be something fundamentally wrong with Islam or it would not have the history it does and the attraction that it has. For most of its history Islam has been far more tolerant of non-Muslims than has been Christianity of non-believers under its control. And the Qur'an, for all its passages of militant resistance, is no more violent than the Bible. Ali believes that Christianity has changed but refuses to concede that Islam can and will change as well. Islam will continue to evolve, as have all of our great religions. The problem here is a misunderstanding of history. Fascism and Communism were resisted to extinction during the 20th century. So Berman seems to think that Islam can be as well. But those ideologies were hot-house tomatoes of one or two hundred years duration mostly imposed on people beyond temporary enthusiasms. They did not create satisfying and humane and sustainable ways of being human. All of our religions do exactly that. In deep ways, though flawed, they are true. And therefore you cannot oppose them. You have to engage them.

Title: The Death of Christopher Hitchens

Date: 2010-08-12T08:50:00.000-04:00

8/12/2010—The news of the terminal illness of the noted atheist Christopher Hitchens has brought out an old Christian-influenced heresy. This misunderstanding can be seen in the following quote from a story in *The Independent*: “To the question that each interviewer was bound to ask an orthodox atheist such as himself – is this the time to reconsider your views on God? – he offers a categorical reply: no.” OK. So, good for Christopher Hitchens not to abjectly surrender his beliefs when confronted with a death that is, after all, inevitable for everyone. I presume that Hitchens like the rest of us has thought about his death before now. The question is, though, why is his impending death thought to be a time to rethink God? Two obvious answers: to save his life from cancer or to go to heaven rather than hell. As to the first, such a thought is beneath contempt. There are millions of faithful Christians and other religious believers dying from cancer right this minute. Nowhere does any creditable religion promise medical miracles. And if God lets some people off the hook and not others, then he is no God worth believing in. That is not the end to death that Christianity is promising. As to the second, why should there be any necessary connection between belief in God and an afterlife? The Hebrew Bible is quite clear that humans just die. Abraham is not promised life after death. He just dies. His justification lies in history—his descendants will be a blessing to the world. Hitchens presumably has that belief now, in a form, in the truth of his writings. Even the New Testament, despite some suggestions to the contrary, does not speak of heaven but of resurrection. The thought of most of the writers is clearly that we die and at some near future time, Christ will return on the last day and that all will be resurrected and some saved and some judged. In other words, Hitchens will still be dead for now. Damon Linker of the *New Republic* was closer to the mark when he wrote of someone perhaps feeling on his deathbed “for the first time in his life the call of God”. In other words, the announcement of my terminal illness marks the proper moment to rethink my life in order to be sure. It is the call to ultimate seriousness. It isn't ultimate vulnerability. Or, even if it is, God is no life preserver. I remain vulnerable. Socrates called philosophy preparation for death. And Heidegger insisted on holding onto the truth of my death. The tragedy of terminal illness for most of us is not that we die but that death reveals how we have wasted our lives. And no conversion can alter that.

Title: The Sick Tragedy of the anti-Mosque Movement

Date: 2010-08-14T22:14:00.001-04:00

8/14/2010—Although I don't usually agree with Charles Krauthammer, I consider him a reasonable and intelligent person. Thus it is with real dismay that I read today in the Pittsburgh Post-Gazette Krauthammer's column denouncing the plan to place a mosque near ground zero in NYC ("A mosque does not belong near Ground Zero"). If even he could write something so prejudiced, what hope is there for clear thinking? Let's start with the obvious. I just saw a list of 50 Muslims who were killed in the 9/11 attacks and I have read that there were many more. Most of these Muslims were Americans, like the majority of the nearly 3000 murdered that day. The crime of 9/11 was not Muslims killing non-Muslims. All of the victims were killed by terrorists, not by Islam. I hope no one would ever say that the victims of the IRA were killed by Catholicism. America is not at war with Islam. How could we be at war with the religion of a billion and a half people? A social phenomenon that large cannot be defeated. All religions have been invoked at one time or another to justify violence. Islam is not unique in this regard. Is Krauthammer not aware of the blood on the hands of Christians and Jews? Buddhists and Hindus? I don't pretend to be an expert on Islam. But I don't have to be. Islam has a long and glorious history. It is obviously not a fundamentally flawed institution. Opposition to the establishment of the State of Israel in an area previously inhabited by Muslims was bound to trigger tensions. It would have taken great statesmanship to avoid the bloody history that followed—a level of leadership that the two sides sadly lacked. There will one day be peace in the Middle East between Muslim and Jew. When that blessed day finally comes, we will look back in horror at our ignorant and harsh words about one of the world's great religions.

Title: If Peru, Why Not the Land of Israel?

Date: 2010-08-17T06:05:00.003-04:00

8/17/2010--Two weeks ago, in enthusiasm for encountering the spirit of the divine in the settings of the Inka empire, I described my trip to Peru. This led my friend, colleague and teacher, Robert Taylor, to ask why I would not visit the Holy Land next, in which Judaism also began as a religion of place. Surely I could also encounter the spirit of the divine in Jerusalem and walking in the footsteps of Jesus in the hills of Galilee. And this spirit would not be a distant indigent experience, but my very own heritage. I do not doubt for a minute that visiting Israel would have that effect. And I do want to make that trip. But for now I feel that I cannot. The reason is Elie Wiesel. Elie Wiesel has written an open letter to President Obama trying to persuade him not to pressure Israel to stop building Jewish housing in Jerusalem: "For me, the Jew that I am, Jerusalem is above politics. It is mentioned more than six hundred times in Scripture-and not a single time in the Koran." (letter here). I don't doubt Wiesel's sincerity. Maybe he is right that Muslims can build in the City wherever they wish. Maybe I am wrong that Israel has no intention of ever sharing Jerusalem, even with a peaceful Palestinian State. But whoever is right, clearly American-Jews-visiting-Jerusalem are pawns in a political game. My presence would be, and that presence is, taken to be an endorsement of Wiesel's opposition to policies I agree with and a warning of political disaster to the Democratic Party. I won't go to Jerusalem because Wiesel is right that Judaism is a religion of place. For now, and I hope not forever, that place is held not spiritually, but militarily. That place does not embrace, but excludes.

Title: Imposing Shariah

Date: 2010-08-22T20:47:00.000-04:00

8/22/2010—Is Islam incompatible with democracy? And what does the question mean? For example, according to an article in today's edition of the New York Times, the Iman behind the Islamic Center/mosque controversy, Faisal Abdul Rauf, wants the United States to adopt principles of Shariah, that is, Islamic law. This formulation is a little misleading since according to the article what he means by adopting Islamic law is akin to Catholic social teaching. In fact he apparently believes that countries like the United States are more faithful to Islamic teaching already than are so-called Islamic states, which in his view abuse the rights of women in contravention to his understanding of Islam. But I don't want to get sidetracked. Is the desire to adopt Islamic law incompatible with democracy in principle? Clearly, this person believes that God wants human beings to treat each other well, but his first allegiance is still to God rather than to the democratic process. Yet I think putting it this way shows that there could not be anything in principle undemocratic about wanting to serve God's will in constructing the rules of a society. As an example, consider the underground railroad before the civil war. Slavery at the time was of course legal and the underground railroad was obviously illegal. The people involved put their own understanding of right and wrong (or for some the will of God) above the democratic system. But would we today call that undemocratic? Every citizen understands that there is a point beyond which a majority may not go without surrendering its right to be obeyed. All of us have a point at which we would serve what is right rather than majority rule. So we are all undemocratic at some point. But the issue of adoption of Shariah is not even as close as the example of the underground railroad. As long as Faisal Abdul Rauf wants the principles of Shariah adopted democratically, which he does, apparently, there is not even an issue of undemocratic commitment.

8/26/2010—I just saw an advertisement for a new book, very serious, of arguments for the existence of God from the new physics and the new philosophy: *New Proofs for the Existence of God: Contributions of Contemporary Physics and Philosophy*, by Robert J. Spitzer, S.J. The thrust of the science part seems to be that the universe had to have a start and that such a start had to have a transcendent source (that is, outside the matter and energy matrix of the universe itself). While I'm sure that the science is solid, this kind of argument is pointless in terms of the kind of God we humans might be interested in. The question is, is there a God who can intervene right now in the natural order. Well, of course there might be such. But by definition, you cannot find evidence of such a God through science unless there is some kind of gap in the natural order now. Without that, all you have is a universe that started at some point. Such a start is odd and mysterious all right. But it does not call Abraham. Similarly, I recently attended a discussion in which the groundlessness of all values was put forward as a consequence of the atheist position. For reasons I won't go into here, I'm not sure that this is necessarily the case. But assuming that it is, that is a reason for despair rather than for the existence of God. Just because God would be a really, really good thing to have, doesn't mean that God exists. I don't think the universe is a cold, dark place, but if it is, it is.

Title: Glen Beck's Restoring Honor Rally

Date: 2010-08-29T12:54:00.002-04:00

8/29/2010—"I love my country and I love the Lord and that's why I'm here." These are the words of a participant in yesterday's Restoring Honor rally in Washington D.C., as reported by NPR (not the most reliable source to report on a Glen Beck rally, I admit, but in this case, there is no reason to doubt either the sound bite or the representative quality of the sentiment.) These ideas should be considered in two lights—from the point of view of Christian theology and from the point of view of the Constitution. From the point of view of Christian theology, Jesus does not love America. Jesus loves the people of America, of course, as he loves all people; but there are no Christian countries. As far as Jesus is concerned, all countries are Rome. But it is even worse than that. There really aren't any Christian people either. That of course is an exaggeration. But as Karl Barth once said, we are all enemies of God. The kind of self-satisfaction evidenced in the sound bite above has no place in Christian theology. Certainly no one can say with confidence, I am a Christian and you are not. From the point of view of the Constitution, there were two different rallies. In one, represented in the Pittsburgh Post-Gazette story by tea party organizer Patti Weaver, the rally was about "free markets, fiscal responsibility and a constitutionally limited government". (I wish she had added no standing army). The only constitutional issue here is the size and responsibilities of the federal government. But there was another rally, represented in the PG by Ilene Hightower, who was there to promote "more Christianity in the public square." Obviously this does raise Establishment Clause issues, but she may have meant the adoption of certain policies rather than religion per se. Adopting policies rarely raises any constitutional issue, even if motivations are religious. The irony of all this is that Martin Luther King Jr., whose memory was evoked both by demonstrators and critics yesterday, was the embodiment of Christianity in the public square, though he is praised by critics of religion, and had no interest at all in free markets—he stood with unions.

Title: Is Eat Pray Love Religious?

Date: 2010-09-01T15:15:00.001-04:00

9/1/2010—This may seem like an odd question, given that one-third of Elizabeth Gilbert's spiritual memoir is set in an Indian Ashram, where she goes in order to attain enlightenment, and given that the book is filled with references to God. But it is a very serious question and I intend to assign a bit of the book in my class in the spring entitled Secularism and Religion in the Public Square and ask my students the same question. Here is the issue. The whole idea of the separation of church and state in a constitutional sense depends on there being a difference between the secular and the religious. But the genuinely religious quest that Gilbert is on is so non-supernatural and so filled with experiences that any secularist could have (and that some secularists have already had) that a sharp distinction between profane and sacred seems impossible. For example, why could a secularist not experience the mystical embrace of oneness in consciousness? Secularists think they should not speak that way. But, why not? Gilbert's mantra was originally, Om Namah Shivaya: I honor the divinity that resides within me. So, what if the American national motto were one Nation under the Divinity that Resides in Each of Us? Would that be religious and perhaps unconstitutional, or secular and just fine? Even more fundamental than the legal question is the cultural one. Why shouldn't secularism be open to expressions of mystery and depth? Of course a secularism like that would be Hallowed Secularism.

Title: The Reaction to Daniel Quinn

Date: 2010-09-04T15:00:00.003-04:00

9/4/2010—One reaction to the hostage-taking by James Jae Lee at the Discovery Channel headquarters, in which Lee demanded that the network present certain of the ideas of Daniel Quinn, is to emphasize Quinn's stand against human population growth. Obviously, Lee's own violence, which led to his death and fortunately harmed no one else, has nothing to do with the ideas of Daniel Quinn, a point Quinn himself has been making. The more significant question is whether Lee's anti-human perspective, in which humans are viewed as parasites of nature, is a genuine outgrowth of Quinn's views. (The Catholic News Agency for example reported that "A pro-life group which believes Lee started an argument at one of their protests said his 'utter disdain for human beings' is at the core of the mindset pro-lifers oppose." [story here]) The idea is that if you do not view population growth as positive, you must inevitably end in violence against humans, either figuratively or, as in Lee's case, literally). It is true that Quinn is a kind of Malthusian, for whom the agriculture race cannot ultimately be won. More food just leads to more people. The only answer is to let people die when food supplies prove inadequate. Quinn never hides his view on this matter, but it is not central to the book *Ishmael* and plenty of people, myself included, have been influenced by Quinn's ideas without adopting that particular one. The basic idea of *Ishmael* itself is that the world is not made for human beings but that humans became human through living in dependence on the natural world. In other words, the western view, including the view of many forms of monotheism, that humans are higher than nature is itself anti-human and a form of oppression. We evolved into what we are now only by being part of nature. If we do not return to our earlier understanding of ourselves, we will destroy ourselves and will destroy much of the current form of the natural world along with us. It is in this context that Quinn suggested that in the Americas before the European invasion experiments were taking place in large-scale sustainable civilization. The indigenous worldview of the Mayan, Inkan, and Aztec civilizations, as well as smaller experiments taking place elsewhere in the Americas, can serve as a reminder that humanity as part of nature is not a dream but has been a functioning reality throughout human history. Of course it is true that sustainable human civilization cannot absolutely privilege the growth of human population above everything else. But it is odd that religious thinkers who insist that human beings must live within all sorts of other limits on their behavior balk at this one limit: that we cannot endlessly reproduce without destroying ourselves and others.

Title: George F. Will as a Know-Nothing

Date: 2010-09-06T10:24:00.000-04:00

9/6/2010—It is bad politics as well as unattractive to label one's political opponents as know-nothings. It suggests that opposition is nothing more than ignorance, which is a pretty arrogant position. But what can you do when your opponents expressly elevate ignorance to primacy, as George F. Will did today in the Pittsburgh Post-Gazette? Will's op-ed argues that environmentalists today lack political pull because they "have forgotten their origins as skeptics". The American people are skeptical today of all experts, especially those who forecast a recovery that has not come, and environmentalists think they know better than the people. As a general position, skepticism might have a lot to recommend it; but paralysis has nothing to recommend it. Imagine instead of global warming, scientists discovered that a comet was heading toward Earth and recommended an expensive effort to block it. Presumably, George F. Will would be out front arguing against such government spending because "the American people have looked in the sky and have not seen anything." It's either getting warmer or it is not. If it is getting warmer, people are either causing it or they are not. Maybe the vast majority of scientists studying this are wrong. But if they are right, the contrary opinions of even a majority of the people will not change the facts. It is especially dishonest of Will to point to public opposition to taking action to combat global warming as evidence that there is something wrong with the science. Combatting global warming will not be cheap (though much cheaper than doing nothing). Why shouldn't the people oppose expensive action when apparently respectable writers like Will loudly proclaim, without any evidence, that the underlying science is wrong? There is a good test of skepticism. Watch where corporate money is. Environmentalists were and are skeptics of claims by big business that their products are safe. But when corporate money supports "skepticism", as big tobacco did when science reported a link between smoking and cancer, it is time to be distrustful of skepticism. What position does big oil take on global warming today?

Title: How is Forgiveness Possible?

Date: 2010-09-08T22:19:00.003-04:00

9/8/2010—tonight is the first day of Rosh Hashanah, the Jewish New Year. (Jewish days begin at sunset). It is also the first day of the Days of Awe, the period of ten days of intense introspection in which Jews consider their lives and commit themselves to repentance (teshuvah). It is a time when something genuinely new is possible. This is the first year in which I have totally cut myself off from the Jewish tradition. It finally seemed to me that the tradition did not make sense without a connection with the living God of Israel. That is also why I did not move to the various forms of humanistic or cultural Judaism. Judaism is a religion, not just a set of customs. I had hoped to find something that is connected to ultimate reality without the dead material of Jewish and Christian life. Tonight it feels that this will not be possible. I definitely miss the community I felt at my old synagogue. But maybe that is just nostalgia. The deeper problem is twofold. First, renewal is communal, not just personal. If the point is to get beyond one's self, that cannot happen on one's own. A community is needed. Second, if there is no God, how is real forgiveness possible? We can try to forgive each other, but human forgiveness is not ultimate. I'm pretty sure there is no God of the sort the Bible speaks of. Nevertheless, forgiveness happens all the same. Does that mean that God exists? Or does it mean that reality is like the Bible says even though there is no being independent of it? The question is always the same: how can the promises of the Bible be true without a God?

Title: What Did Rick Santorum Mean?

Date: 2010-09-11T18:53:00.000-04:00

9/11/2010—On this ninth anniversary of the World Trade Center and related bombings, it seems appropriate to plumb the role of religion in America's public square. For some people, America is engaged with a militant strain of Islam that wants to install Sharia as the law for all societies as opposed to our secular vision of the public square in which all are free to practice any religion—or no religion—as they choose. From this point of view, Santorum represents a weird form of the very enemy we are fighting because he spoke on Thursday, September 9, in favor of a greater role of faith in promoting public policy. What is Santorum actually promoting? Clearly, he opposes abortion and gay marriage and he says that on both positions he is following God's will. I'm really not sure there is much else to his new faith in public life position. In one sense, this is not only nothing new, it is not even faith in public life. Lots of people oppose abortion and gay marriage for a variety of reasons. As I argued in *American Religious Democracy*, it cannot possibly be true that there is something wrong with promoting policies because I believe that they represent God's will. If the voters disagree with Santorum's policies, they will certainly say so. What about constitutional rights? Well, it is not as if abortion and gay rights are obvious from the text of the Constitution. The Supreme Court has not said anything about gay marriage and Santorum is not pledging to refuse to enforce *Roe v. Wade*. There is nothing here in a political sense. But there is something here in a religious sense. Who is Santorum to tell us what God's will is in such a specific way? The ancient rabbis, who presumably knew something about God's will, were not as pro-life as Santorum is. Even though I basically agree with Santorum on this issue, it is arrogance to assert that this is clearly what God wants. Opposition to gay marriage is even worse. What is the biblical basis for that? Paul was not addressing stable loving gay relationships. Leviticus is the old law overturned in favor of the law of love. God tells Peter all food is kosher. Why not all loving relationships, too? Santorum's theology is worse than his politics.

Title: What is the Problem with Secularists?

Date: 2010-09-16T18:02:00.001-04:00

9/16/2010—My friend wants to know what is the problem with secularists? He means why do secularists have a problem with religion? I can't say it is because of organized religion because he has little to do with organized religion. Besides I don't think that is it. Most secularists I know are not disabused of religion because of the problems of the Church, for example. They are more likely to view these problems as inherent in religion. So I say, it is the supernatural claims of religion. But he responds with disdain: no one talks that way today. He means no self-respecting theologian writes about Beings doing tricks with the natural order. (And he has read them all). Yet, is it that simple? He and I are reading the New Testament at this moment. Isn't Christianity just one big miracle, as C.S. Lewis once put it? Last week, I looked at a prayer book for the High Holy Days. It reminded me why I felt I had to leave Judaism. What is the point of asking God for forgiveness? Is forgiveness a favor? Surely, my obligation is to recognize my sins and sincerely repent. But if I really repent, why would I not accept my punishment as just? Why would I ask to get out of it? On the other hand, if I don't ask for forgiveness, I can still be grateful that it occurs. And I know that it does. But who is this God? I told my friend that what the secularists like Christopher Hitchens seem to deny is that there is anything more to life than what lies on the surface. They seem to deny mystery and depth as aspects of human experience. If, for example, I claim that repentance leads to forgiveness, Hitchens would have to say this is just a psychological reaction. In principle, we could duplicate it with a pill. But I believe the experience of forgiveness is real. It is another of the promises of the Bible that genuinely reflect the way things are. Just like justice. How these things came to be that way, the authors of the Bible called God. Maybe God just meant they did not know. The Bible generally did not ask its audience to believe things they could not accept. The ancient world believed in gods, so God was just greater than the Egyptian gods. Jesus cast out demons, but so did his critics. The amazing thing to the ancient world was that the Jewish God in the Old and New Testament cared about slaves and the poor and women, not that this God existed. Somehow we have to get clear of things that probably cannot be true and see what is then left of religion. I think quite a lot.

9/18/2010—Last night I attended a Kol Nidre service at a messianic Jewish community. It struck me that their model might be an important piece of a secular future. The question for that future is, how am I to live? That question includes the sub-question, how am I to raise my children? So far, since I left Judaism, the answer to the question of how to live has been a void: I just don't engage in religious activities. That life, as I suggested in the book, *Hallowed Secularism*, is empty and flat. There must be a better way. I start with several assumptions that other secularists will not share. First, the religions of humankind are true—they contain the blueprint for how to live flourishing human lives. Second, humanism in all of its guises is basically false. Humanism is false in that there really is power in reality—you could say structures to avoid any theistic misunderstanding—to which human beings must accommodate themselves and which humans tend to resist through self-centeredness, hatred and indifference. Third, flourishing human life requires rhythm and prayer. Fourth, flourishing human life requires stories. Fifth, of all the religious traditions, the one best suited to a secularist in the West, (for lots of reasons) is the Judeo-Christian tradition. Jesus, understood as a Jew, is the best example of how to live a human life. Religious believers have the stuff of flourishing human lives. However, the secularist cannot actually join any of these religious traditions in good faith because the secularist rejects core values of all of them. So, what then is already available to the secularist? There are two existing models, both great, but neither one for me. One is really liberal religion, such as the various Unitarian traditions. I talk about this in *Hallowed Secularism*, but here let me say that many Unitarian churches are open to all religious traditions except Christianity. It is hard to be Jesus centered in a Unitarian Church. The other is humanistic Judaism or other forms of humanism. The former excludes Jesus and the latter is insufficiently Judeo-Christian. What we are left with is, ironically, the entire Bible, Jewish and Christian, reinterpreted along secular lines. Eventually, I could see a community forming around the Judeo-Christian calendar, including a Sabbath (Saturday? Sunday?). The Sabbath is absolutely necessary to resist voracious capitalist consumption as the only goal of human life—today's secular heresy. One more thing. Secular life also requires a secular Mishna—the original form of Jewish law. Secular life requires continuous reflection on how people should live. People are not free to live as they choose. If they think they are free, they will likely end up as slaveholders or destroyers of nature and think they have done nothing wrong as their world deteriorates.

Title: Why Global Warming Cannot be Happening

Date: 2010-09-23T21:43:00.002-04:00

9/23/2010—It's 9:31 pm on Thursday, 9/23, the first full day of autumn. It's 79 degrees. But, of course, many say there is no global warming. I've heard it all. Global warming deniers have begun to stop claiming that it is not getting warmer. Now, like Joe Bastardi of Accuweather, they say that the warming trend is part of a natural cycle, as if higher carbon and higher temperatures were a coincidence. But I'm told even the pattern of warming shows human influence: warmer at the lower levels of the atmosphere, cooler above. The question, though, is why the resistance to what seems obvious to most scientists studying the matter? Surprisingly, the answer lies in theology. Readers of my books know that I have had plenty of experiences in my life that suggest that God is real. So, why do I insist that God does not exist? The reason is simple. God does not fit in my understanding of how the world works. I believe in the linkage of flesh and spirit. There cannot be any being who is outside matter. I have lived my life this way. Now consider global warming. If global warming is happening, the market is not reliable and government is needed. These are two commitments that many people have spent their lives denying. Global warming cannot be true for these people, any more than God can be real for me. It would require a whole rethinking of how the world works.

Title: The Religious Person is One who is Open to the Call of History

Date: 2010-09-25T12:03:00.001-04:00

9/25/2010—My friend tells me that, in the view of the theologian Friedrich Schleiermacher, the religious person is the one who is open to the call of history. This strikes me as exactly right. Think of Moses in Egypt. Jesus. Lincoln, Gandhi. Martin Luther, Martin Luther King, Jr. All of them were willing to be led to address the great need of the hour and sacrificed their lives and comfort to do so. My friend's point is that this is a more fruitful way to look at religion than through the lens of the natural/supernatural divide. And it does raise the question of just what the difference is between the religious and the secular. How does the secularist respond to this formulation? Does she say that the secularist also responds to the call of history? Or does she respond that the notion of "the call of history" is a woolly-headed and dangerous concept? If history speaks, we already have God. Or is history just a jumble? And is this, rather than belief in God, the real question of faith?

Title: Ignorant of Religion but Believing in God

Date: 2010-09-30T04:38:00.002-04:00

9/30/2010—Turns out the national motto—“In God We Trust”—is perfect for America. For years, secularists and others committed to the separation of church and state have argued that the motto is unconstitutional because of its reference to God. But now we have evidence that the “God” of American consciousness may not be the “God” of Theism that secularists have rejected. That evidence comes in the form of a survey from the Pew Forum on Religion and Public Life that asked Americans questions about their religious knowledge. The result, as reported by Laurie Goldstein in the New York Times on Tuesday was that “Americans are by all measures a deeply religious people, but they are also deeply ignorant about religion.” (story here) Actually, the news stories were a little harsh. Some of the questions were hard. But the answers demonstrated a wide disconnect between religious identification and religious knowledge. For example, 43% of Jews did not know that Maimonides is Jewish. One can assume that any Jew who does not know that fact is probably going through the motions of Jewish life rather than allowing Judaism to challenge and change her life. The same thing can be said of others: “Forty-five percent of Catholics did not know that their church teaches that the consecrated bread and wine in holy communion are not merely symbols, but actually become the body and blood of Christ.” If you don’t know that, there is a sense in which you are not really a Catholic. “Fifty-three percent of Protestants could not identify Martin Luther as the man who started the Protestant Reformation.” How likely is it that a person that ignorant of the history of his faith genuinely practices it? Now, if religion is just a feeling, maybe the knowledge gap does not mean much. People go to church for uplift. Or think of themselves as religious for a feeling of community. These results put the controversy over the national motto in a different light. Somewhere I read in all these stories that the survey also found that “86 percent of us believe in God or a higher power”. Now what does such a belief mean for someone who does not know much about religion? Such a person might mean a personal God, but presumably not one who intervenes in the world, since for this person, religion is “personal”. God might not even be personal, but a force of some kind. Or God might be a stand-in symbol for other values, such as the objective reality of good in the world, a kind of antidote to nihilism. Whatever those sorts of beliefs in God might mean for the future of religion, it is hard to think of them as a threat to the separation of church and state. Critics always say to me, God means “God”. Maybe not.

Title: None

Date: 2010-10-05T04:45:00.003-04:00

Sam Harris and Objective Morality

10/5/2010—In a Newsweek debate a few years ago, Sam Harris, one of the New Atheists, debated Rick Warren, noted evangelical minister and author of *The Purpose Driven Life*. At one point in the debate, Warren challenged Harris on the ground of morality for atheists: “If life is just random chance, then nothing really does matter and there is no morality—it’s survival of the fittest. If survival of the fittest means me killing you to survive, so be it. For years, atheists have said there is no God, but they want to live like God exists. They want to live like their lives have meaning.” Warren was challenging atheism on the ground that atheism is inherently nihilistic. Harris responded, “I’m not at all a moral relativist. I think it’s quite common among religious people to believe that atheism entails moral relativism. I think there is an absolute right and wrong. I think honor killing, for example, is unambiguously wrong—you can use the word evil.”

[\(exchange\)](#)

I thought at the time that Harris’ response was disingenuous. I thought that he must endorse moral relativism whether he liked it or not. After all, many atheist thinkers have acknowledged the moral incomprehensibility of the universe empty of God. But it turns out that Harris was quite serious and he has now written a book, *The Moral Landscape*, in which he argues that there is objective morality, that there are right answers to moral questions, that moral claims are either true or false and that science, particularly brain science, is the most reliable source for moral knowledge.

I haven’t read the book, which is published just today. I have read only the review in the New York Times by Kwame Anthony Appiah. [\(here\)](#). I have my doubts based on the review that science can live up to the claims Harris makes for it or even that morality can be specified in the ways Harris seems to claim.

But my interest is the role of religion for Harris. Harris is very clear, apparently, that moral knowledge does not reside in religion. Yet, in claiming that morality is objective, Harris joins a fundamental religious tradition. As I say in everything I write, C.S. Lewis called that position, the Tao, because it is the assertion that the universe is a certain kind of moral thing and that we are also. For Lewis, the Tao was the essence and starting point for all religion.

What does Lewis think religion is, after all? Just supernatural fairy tales? If the universe produces beings like us who seek objective morality, objectively right ways to live, and if the universe then produces the very structures in the brain that allow us to see that this is possible, then it is likely that there is something moral in and behind the universe, a kind of blueprint. Plato called this the idea. Some religious believers call it God. What difference does it make what we call it? Why does Harris think there is so much distance between himself and the religious believer?

Title: None

Date: 2010-10-09T06:12:00.000-04:00

What Will Future Secularism Be Like?10/9/2010—Elizabeth Drescher had a great piece in RD magazine yesterday (Gen X, Gadgets, and God). She drew a line among baby boomers, Gen-Xers and Millenials. These represent the generations born, respectively, from 1946-1959, 1960-1981 and then on through 2000. The research shows gradual decline in religious affiliation and thus a growing secularism, as you would expect from what we have been reading. But, surprisingly, (or maybe not), is that for the Gen-X and Millenials the intensity of religious commitment among those who have it, is “as strong as that of pre-Boomer believers.” And their religious beliefs and practices tend to be “fairly traditional”. If you assume that this just means that younger people divide among non-belief and orthodoxy, you would be wrong. Both groups of believers “churn” among religious traditions until they find a place they feel they belong. And they blend faith practices of different religions (I don’t know how that fits with traditional beliefs). There is here, according to Drescher, a tremendous degree of shared spiritual exploration using social media and other technologies. (Blogs like this one are old hat). No religious experts needed. What is unfortunate here is the lack of knowledge. I had envisioned, or hoped, that in the future a scientifically committed people would reinterpret the old myths in order to create a new kind of religious practice, without the supernatural, but with the wisdom of our religious traditions. What may happen instead, is that a very spiritually hungry people will create its own spirituality, much like we now try to create our own news, and will make the same mistakes that idolatry has always made.

Title: Why is Snyder v. Westboro Baptist Church a free speech case?

Date: 2010-10-14T23:56:00.000-04:00

10/14/2010—In all the discussion about the funeral protest case, no one has really mentioned how odd it is that this is a free speech case as opposed to a free exercise of religion case. Why is that? To the church, the picketing is absolutely a part of their ministry of God's word. To them it is religion, not speech. The simple answer to the question is that after *Employment Division v. Smith* in 1990, no free exercise claim can be made against a so-called generally applicable law. The government need never make an accommodation for religion. So, for example, a ban on alcohol as in Prohibition did not have to make an exception for wine for sacramental use. This was not the law before *Smith*. Before that change, a substantial interference with religious practice required the government to show an extraordinary justification, called a compelling state interest. So, a general ban on demonstrations at or near a funeral would survive a free exercise challenge because it is a general law. But this is not the case with regard to free speech. For that reason, the Westboro Church is relying on free speech rather than free exercise of religion. But why? Why is free exercise a second-class right? It is not because practice is conduct and speech is speech. The Court acknowledged in *Smith* that religious practice combined with some other kind of right might be relied on to overturn even a general law, like a mandatory school law. The reason may be a basic shift away from religion to the more secular right of conscience available to all citizens. That would be strange coming from an opinion by Justice Scalia, but maybe secularization has gone further than we thought.

Title: Woody Allen's Hell

Date: 2010-10-17T06:52:00.003-04:00

10/17/2010—The reviewers are saying that it is only a shallow movie about uninteresting characters making bad choices. So, who cares what the movie says? But to me, Woody Allen's new movie, *You Will Meet a Tall Dark Stranger*, is a searing indictment of the human condition. We have no self-insight, we make foolish choices and then when we are disappointed, turn on others in rage or despair. The main characters either commit acts of violence or seem utterly capable of doing so when their desires are thwarted. This movie gives the lie to the easy "good without God" school. These characters are all utterly without God and they are not good at all. Only one character genuinely loves (and it is his deceased wife he loves); only one character seems to be grounded, even a little, in truth (the gallery owner). And if we reflect on ourselves and our small acts of violence every day, we can see ourselves in Allen's universe. We can be sure that Allen would not think that religion has anything to do with improving humanity's situation. The characters in this recent movie are not much different from the murderer in his earlier, great movie, *Crimes and Misdemeanors*. And that character was fully grounded in Judaism. *Stranger* is a sketch while *Crimes* was the full bloody canvas. But essential humanity is the same. Are we really the way Allen sees us? And if we are not necessarily that way, what are the sources of judgment, compassion and sacrifice? Allen is no help to us at answering these questions. The conclusion of *Stranger* seems to be that lies and truth are about equal and you can live just as well, or badly, out of illusions. I cannot accept that. Any improvement in humanity must begin with a commitment to truth. While it is true that Freud called religion an illusion, I don't think that is so. Religion seems to me very concerned with truth. In fact, religion teaches truth so well that people are often led out of it when the religion seems false. This latest Woody Allen movie is a challenging reminder. Of course we need not be like his portrayal of us. But we can be. So we must try to live our lives truthfully, carefully and lovingly. Allen's characters don't any longer even make that effort.

10/20/2010—Evolution is seen as a threat not only to the account of Creation in Genesis but to all morality because it is an amoral process. Unlike God, evolution does not start out to choose the good. Evolution just happens as organisms live and die. And it is not just religious believers who see this threat but many scientists have claimed that the notion of objective good goes out the window along with God and the Bible. This is why altruism—the tendency of organisms to sacrifice themselves for others—along with other qualities like cooperation, became important topics in evolution. Explaining them in evolutionary terms might save morality from the materialist ash heap. In a recent issue of the New York Review of Books, H. Allen Orr reviews *The Price of Altruism* by Oren Harman, an account of the life and work of George Price. (review here) Price's Equation showed how a trait could be passed within a group even while another trait in tension with it operated between individuals. So, selfish individuals might have an evolutionary advantage even though groups with cooperating individuals also have an evolutionary advantage. Both traits would be passed along. As interesting as the review is, we who are not evolutionary biologists might better take a different view of all this. What if T.H. Huxley was right (and Price wrong)—what if evolution leads to morally abhorrent results and human beings have to learn to train themselves through culture against what we would do naturally? Huxley's fear led to the decline of the natural law tradition and a general demoralization that continues to this day. But what Huxley forgot is that we human beings are nature in all our complexity. Evolution did not just select this or that trait. Evolution selected us. All of our possibilities represent natural selection. Our cultures are natural also. And if large brained animals are associated with increasing levels of empathy, which they are in nature however it happened, then nature selects for goodness along with intelligence. OK, so there is no God behind everything. That means Earth might lie in the path of an asteroid and that might be the end of us. But, on the other hand, the universe exhibits many of the traits that led the founders of our religions to see divinity somehow in it. The universe has not changed at all. It is still our basically good home. The religious mechanism—the supernatural God—is not necessary any more than it is necessary that we understand precisely how goodness evolved to consider it morally superior.

Title: Why Are the Democrats Doing So Badly?

Date: 2010-10-25T04:40:00.003-04:00

10/25/2010—I am enough of a political partisan to be unhappy that the Democrats are doing so badly. I am satisfied with most of President Obama's policies insofar as they went: healthcare reform, financial regulation, preventing a second Depression, and trying to nudge Israel on the settlements. Obviously many Americans do not agree with me. I am particularly unhappy that people who deny global warming can still win elections. But in terms of lessons, it is important to figure out why the Democrats are in trouble. The conservative columnist Charles Krauthammer believes that the reason is ideological. He sees this midterm election as a referendum on government spending and regulation. Since the Democrats are doing badly, that means the country does not want these things. But, to me, this election could not be less ideological. And I think Krauthammer will find this out when he tries to repeal healthcare reform. Let's go back to denying people insurance based on pre-existing conditions. There's a rallying cry. This election is a referendum on a 9½% unemployment rate that the voters were not prepared for. The Democrats have failed to get the economy moving again in 2 years. Worse, the Democrats were doing other things during that time, as if they thought healthcare reform was more important than jobs. Even worse than that, no one said to the American people at the beginning, that large-scale deficit spending was only designed to hold things in status quo and that the recovery would take a number of years. The Democrats are going to lose seats because their economic policies have seemed to fail according to the goals they themselves set. (If they had set the goals lower, they would still be losing seats, but not so many). Only signs of economic growth will help the Democrats. Next time you listen to Sarah Palin, you will hear about spending and regulation. But mostly you will hear about jobs. There is nothing ideological about it. Ironically, if Obama had actually been a socialist and had gotten the economy moving through public ownership of the means of production, the Democrats would be doing just fine.

Title: Is Islam a Religion of Peace?

Date: 2010-10-28T21:44:00.002-04:00

10/28/2010—This was the question debated on October 6 at NPR Intelligence Squared at NYU. Four scholars took part: for the affirmative, Zeba Khan and Maajid Nawaz, and for the negative, Ayaan Hirsi Ali and Douglas Murray. The audience concluded in the negative: “In the end, the audience agreed. The majority of voters— 55%— ended up saying Islam is not a religion of peace. 36% said it was, and 9% still remained utterly confused and undecided.” (account here). There is something wrong with the approach of this debate. Forget for the moment the presumption in judging the religion of a billion people, as if the audience has a right to decide whether these people ought to practice their religion. And forget the arguments that Christian and Jewish sources (and other religions as well) are just as violent as the Qur’an. What about the following question—is secular democracy a political system of peace? One could debate the peacefulness of Islam in many places in the globe—a Muslim country would have been nice. But how could the question be debated in America, which has been more or less continuously at war for forty years? And as for blowing up buildings, that is what military air campaigns do. I am not claiming that the actions of America have been wrong. I agree with most of them right back to dropping the atomic bomb on Hiroshima. (I did draw the line at the Iraq war.) I am merely pointing out that even to hold such a debate implies that the debaters in some sense occupy a privileged place with regard to the question. With regard to this question, America occupies no such privileged place. Surely people in America have no business debating this particular question about Islam.

Title: Why I Wish No One Had Gone to the Stewart/Colbert Rally

Date: 2010-10-31T09:41:00.002-04:00

10/31/2010—I agree with Taylor Marsh on Huffington Post. Political differences are real. Cool ironic distance just gets the other person elected. Here in Pennsylvania there are especially stark differences between Joe Sestak and Pat Toomey. Sestak supported healthcare reform/Toomey wants to repeal it. Sestak supported regulation of Wall Street/Toomey opposed it. Sestak thinks the government needs to keep deficit spending in aid of the recovery/Toomey wants to cut spending—and enact the Bush tax cuts for those earning over \$250,000. I wish my neighbors who went to the rally had stayed home and worked to get out the vote or failing that had at least donated the money they spent on the trip to a candidate to help the candidate get out the vote. It was the tone of the rally I object to the most. One sign reportedly read, “hyperbole is destroying America” (get it?). Will electing Toomey destroy America? Of course not. But it will take us down a road that will hurt a lot of people. His election, for example, will make it almost impossible to do anything about global warming. Do I think unchecked global warming will destroy America? Closer question, but nothing for this woman to sneer at. The people at that rally think they are smarter than the rest of us. They are saying that what we think so important really is not. I hope they still think so after the new Republican majorities take power. I have a feeling that the people at that rally won’t be thinking it is all so funny in six months.

Title: Pat Tommey a Citizens United Victory

Date: 2010-11-03T04:21:00.002-04:00

11/3/2010—Well, I'm glad the political news was not worse. I am surprised and gratified that Pat Toomey won by only a small margin over Joe Sestak. Now, since this was essentially an open seat because the incumbent, Arlen Specter, lost in the Democratic primary, two questions. First, why was it so close? Sestak was perhaps the most liberal candidate in any seriously contested Senate race in the country. He did not run away from President Obama but tried to explain the bailout and Wall Street regulation. He proposed a public option for healthcare reform. Pennsylvania is not an overwhelmingly blue state. (Republicans held the State Senate going in to the election and now control the Governorship, one Senate seat and both houses of the legislature.) Either Sestak was a great candidate or the Democratic record was not that bad. Or a combination of both. So, maybe that bodes well for the future. Second, would Pat Toomey have won if not for the Supreme Court's Citizens United decision freeing up corporate money to influence elections? The Post-Gazette story shows that a lot of independent expenditure money did flow in. (story here). Tomey had all summer to advertise without opposition. And right up to the end, Sestak was swamped. Still he almost won. Corporate interests bought the man they wanted: low taxes for the rich, low regulation and low spending overall. That corporate power is the world we now live in. Finally, could Arlen have saved this seat for the Democrats? Maybe. But there was a lot of enthusiasm for Sestak that Arlen would not have been able to tap.

Title: "Let the Free Market Reign"

Date: 2010-11-05T05:25:00.002-04:00

11/5/2010—After the election, NPR interviewed the President of a tea party group from Texas, Fort Worth I think. The quote above is from her. Now, if her reaction is at all representative, and the tea party movement is certainly representative of a substantial current in America, then we really will have more of the same policies in the future that we have had in the past. And the Republicans will enjoy continuing electoral success. I admit that I find it odd that she draws this conclusion from the events of the last two years. The last time America experienced an economic downturn as severe as this "Great Recession", in 1932-33, the reaction was much different. The Great Depression convinced the American people that the market was not infallible and natural. At that time, America turned to the regulatory state. Since this time economic decline occurred after an era of deregulation, I would have expected the same reaction of turning to regulation. After all, private market players invented mortgage backed derivatives and falsely described their value. It was the market that brought this catastrophe on with one of the market's usual speculation binges. Undoubtedly some Americans did draw an anti-market conclusion. Joe Sestak ran for Senate in part on his support for Wall Street regulation and that seemed to be one of his strengths in Tuesday's voting. Whatever lesson people drew from the Recession was not the result of manipulation. A lot of money poured into the election cycle. But no one paid for advertising in 2009 to convince the America people that the market was still reliable. Maybe the reason some Americans think the market was not to blame for the downturn is that we now have a regulatory state and it failed to protect us. Then, an activist state did intervene to stop the bleeding, but did so by propping up the same institutions that brought on the problems to begin with. At least the market tends to punish irresponsible behavior. The American free market ethos must be pretty deeply embedded in our character to still have such resonance.

Title: How to Fix the Establishment Clause

Date: 2010-11-07T06:26:00.000-05:00

11/7/2010—I heard University of San Diego law professor Steven Smith speak at the St. John's Law School Religious Legal Theory Conference on Friday. His topic was how to fix the Establishment Clause.

What is wrong with the Establishment Clause? Simply put, the Supreme Court has promised a secular government while allowing all kinds of government religious expression, such as “In God We Trust” on our money.

Smith's answer is for the Court to walk away from these cases by making it harder for people to sue unless the government coerces people or engages in severe sectarianism (as in “In Christ We Trust”). This would take the cases out of federal court and move them into the political realm, where people could argue their competing constitutional visions. Smith calls this kind of constitutional arguing “soft constitutionalism”.

There is a good reason in Smith's view for judicial walking away. The problem with the Establishment Clause cannot actually be fixed. The Supreme Court made a mistake in the school prayer and Bible reading cases by taking one side in an unresolvable fight between the constitutional visions of secularists and providentialists. Unresolvable because both sides have more or less equally good arguments. The Court could have found coercion in the school cases and never have decided between these two positions. By instead choosing the secular side as the proper interpretation of the Establishment Clause, the Court poisoned political debate and helped usher in the winner-take-all tone of the culture wars.

I have a lot of sympathy for Smith's position. But he fails to anticipate the harm that turning politics into fights about God will do. I think the Court's job is to resolve the Establishment Clause crisis in a way that promotes a genuinely shared constitutional vision. Smith thinks this cannot be done. If he is right about that, he is probably also right about standing.

My reason for promoting an inclusive Establishment Clause formulation has nothing much to do with the Establishment Clause per se. The problem with the political secularism position is what it is doing to a growing American secularism. Secularists today are cut off from religious sources of meaning about existence because of a wooden secular interpretation of religious imagery and language. Unless secularists manage to reinterpret the concept of God away from a supernatural being, secularists will be left with relativism, materialism and maybe nihilism as the foundation of reality. Or, to put it another way, if we don't trust in God because there is no God, can we still affirm that we trust?

I believe we secularists can indeed affirm that we trust the universe. That we trust reality. And that is the reason we need to resolve the Establishment Clause crisis in a way that inclusively reinterprets one Nation under God.

As to how to do that, well, buy my book, *Church, State and the Crisis in American Secularism*, when it comes out in May.

Title: So, What About God?

Date: 2010-11-11T19:38:00.002-05:00

11/11/2010—Happy Veteran’s Day. Pittsburgh still has the parade, but most people seem distant from the reality of the service of those who risk their lives every day in the armed forces. Thank you to all veterans. My colleague Robert Taylor is now reading Hegel with me at the same time we are investigating Emil Fackenheim and the Talmud. Robert is pressing me to be much more direct about God. So, here goes. It is obvious that there is a mysterious “more” to reality that simple materialism does not capture. We feel this dimension when listening to great music or poetry or feeling love—or awe. These experiences are not the result of bad wiring in the brain. They correspond to something real. Nevertheless, these reactions and what they refer to do not repeal the laws of science. Will and intelligence do not exist independently of matter. Therefore, there cannot be anything like the God of the Bible. That does not mean the Bible is wrong exactly. Rather, the biblical writers might have been describing the “more” in certain mythic and anthropocentric terms. Their error might simply have been over specification. For example, reality might favor the slave over the master without a God existing who “led the slaves out of Egypt.” Reality can be God-like without there being a God. The description of God as having commitments, like a person (opposing gay marriage, for example), was always a kind of heresy.

Title: Global Warming

Date: 2010-11-14T22:05:00.002-05:00

11/14/2010—It was recently announced that January-October 2010, globally, was the warmest such period on record. Just a little warmer than 2005. Well, the skeptics say, why should a little warmer matter? This keeps happening. When my son was 10, he swam for the Pittsburgh JCC swim team. And he had a coach named John. This would have been around 1991. John was very conservative, very pro-market. He would make fun of me about global warming. One day he asked me how much warming there had been during the 20th century. I didn't know. I guessed a few degrees. He told me, "less than 1 degree C." [or about 1 degree Fahrenheit; by now it is 1.5 degrees higher]. That did not seem like very much. One degree—the difference between 80 and 82 on a warm summer day. Or between 20 and 22 in the winter. So what? What I did not know then is that global average temperature is a very big number. On average it should not change at all. It should go up a little and down a little. But that is all. When it has a trend, humankind, indeed life on land, is greatly affected. A decline of 6-8 degrees C, for example, might well cause a new ice age. In that context, 1 degree C no longer seems so small. In addition, this was almost 20 years ago. You would think, if global warming were a hoax, that 20 years would reveal it. Where have the cold years been? I'm worried about my children and their children. I wonder about the Tea Party people, who claim to be concerned about the effects of the deficit on future generations. Global warming is going to have a much bigger impact. Why aren't they worried about that?

Title: How is Reality God-Like?

Date: 2010-11-16T04:54:00.002-05:00

11/16/2010—I did not know it when I wrote a recent blog post below about how reality is God-like, but there had been an argument about something like this in the public arena in 2007. Kelly O'Connor responded on The Rational Response Squad (a very good atheist blog) to a piece by Dinesh D'Souza in the Christian Science Monitor defending Kant's view of the limits of reason in the Critique of Pure Reason that there is more to reality than the five senses can know. The senses cannot ascertain the validity of metaphysical truth. O'Connor asks, reasonably, how can we know what we cannot know? Now, I don't know Kant well or really at all (only secondary sources). But I do understand how the believer can experience reality is such a way that it shows the presence of God. It is because reality is God-like. Consider Martin Luther King Jr.'s statement that the arc of the moral universe is long but it bends toward justice. Obviously Reverend King was thinking of the book of Exodus. African-Americans were like the slaves of Egypt. They were condemned to slavery for 400 years before God liberated them. King had faith that the same would happen here and to an extent it did (freedom did not solve all of the Israelites' problems either). The same is true for forgiveness of sin and the divine call to act for justice. Indeed the same is true for the belief that there is such a thing as justice. All of these are realities for the religious believer because, believing in God, they all actually happen. That may be why Kant thought religion to be rational. Reality is structured in such a way that it is as if God exists. I don't believe God exists because I don't think unembodied will and intelligence is possible. But having been brought up in intense religion, I still experience reality as if God exists. And it is irrefutable experience.

Title: None

Date: 2010-11-18T21:25:00.001-05:00

"Getting Honest" About Islam 11/18/2010—Here is what Jay Sekulow of the American Center for Law & Justice, a conservative Christian legal center, had to say about Islam on Monday, 11/15:*****President Obama may think we're not at war with Islam but history proves he is wrong. In a speech last week in Indonesia, the world's largest Muslim country, the President remarked that the United States "is not, and never will be, at war with Islam." But within the last two decades, Muslim extremists have been responsible for several ruthless anti-American terrorist attacks. Globally, al-Qaeda alone (a group with their own version of Islam) is one of this country's biggest threats. As you'll read in Jordan's latest Washington Post article, called "Get Honest About Islam," it's past time for our nation's leader to stop downplaying - and apologizing for - Islam. Once you have had the chance to read it, post an online comment to share your thoughts on this critical issue! Yours for freedom, Jay Alan Sekulow Chief Counsel*****What are we to make of this extraordinary claim? How can we be at war with the religion of more than one billion people? How can we be at war with the religion of the people we are claiming to protect in Iraq and Afghanistan? Jay Sekulow is not a fringe player. The ACLJ is a major conservative presence. If they are able to use the rhetoric of war with Islam, you can be sure that millions of Americans are learning this line. But it is false. We are not at war with a religion. We are at war with terrorists.

Title: The Task of Secularism

Date: 2010-11-20T05:21:00.002-05:00

11/20/2010—I was asked by my friend and teacher, Robert Taylor, to at least outline my philosophy of religion. Even to ask that question is to assume that all of our religions are pointing toward a, or the, truth of reality, something like the old story about blind people describing what an elephant is like when they only touch one part.

The suggestion that each of our religions has only a part of a larger truth is not, of course, how the religions usually describe themselves, but it is not a totally alien idea either. Each religion has an account of persons of good faith who are not members of the religion. In no religion I know of are all such outside persons totally abandoned. Even the strict evangelical Christian form that teaches no salvation outside the son after being born again has a place for anyone who did not have a fair chance to know the Gospel.

At another time I will share my response to Robert. For now, I will just say that it had to do with the concept, from Heidegger, of *gelassenheit*. That term means “releasement”. In German, it is not a technical, philosophical word. *Gelassenheit* is used to describe what might be called in English, “keeping cool”.

All of the religions approach reality from the perspective of trust in its ultimate goodness or at least knowable order. All of them assume that reality is responsive to the extent that a proper way of human life can be in accord with the goodness or order of reality. In other words, there are better and worse ways for humans to live. And all of them place human doing below the fundamental workings of reality. All of this is captured in the old Protestant phrase, “Let go and let God”.

Assuming that there is any truth in my account of religion, and that it can be corrected and improved where inadequate, the task of secularism is to decide these fundamental matters for itself, which means for each and every one of our selves. Then we will have a philosophy of secularism, which will amount to a philosophy of ultimate reality, which will amount to philosophy. That does not mean anything technical. It just means deciding the truth of existence or in the words of the old movie *Alfie*, “what’s it all about?” This is the existential question for every human being. One’s life is either an intentional or a passive answer to the question of what reality is. It is impossible to avoid the question even if one does not consciously address it.

There are actually not that many fundamental orientations to existence available. The religious one I have described might be true. On the other hand, Humanism might say that humans make their own meaning, more or less at will out of a fairly plastic and indifferent reality. Relativism might deny the possibility of this kind of search for truth. Nihilism would do the same, more radically. And there are subvariants, such as materialism or life as the search for pleasure or the doing of one’s duty or even just following convention.

The task of secularism is to think seriously about this and to decide, first for myself, of course, but then socially. In other words, from the nature of reality and the appropriate human response, we can get to the nature of the good society.

That is not a dictatorial approach. Undoubtedly certain human ways of organizing society, such as democracy and liberty are appropriate to many and conflicting philosophies of existence. But secularists have the task of thinking about social forms for secularists in larger groups.

Up until now, it has been assumed, as Austin Dacey seems to assume, that the only appropriate form of life for secularism is individualism. But that is an assumption. And a bad one. It assumes that each secularist makes his or her own way in the world without any structures for education and community that other secularists have consciously created for other secularists. Maybe that will turn out to be right. But I think it will lead to alienation and demoralization and ultimately will reinforce poor forms of human life, such as consumption and nationalism.

Anyway, that is a discussion for the future. First is the task of secular self-consciousness. We are secular and not religious. We must address the question of the truth of existence.

Title: Religion, Art, Science and Philosophy Are Invitations

Date: 2010-11-23T05:00:00.000-05:00

11/23/2010—Yesterday, I was privileged to hear my friend and teacher, Robert Taylor, address his class in Law and Religion on the subject of his philosophy of religion. I am sorry that the address did not take place on a larger stage. Robert had previously told me he is not going to publish his remarks, so I will not presume to reproduce them here. But two statements stood out. Robert began his address by describing the four fundamental realms of access to truth: religion, art, science and philosophy. While the rest of us might regard these four ways of life as independent, or even hostile to each other, Robert described them all as invitations. All of us might have different terms for what the invitation is to. But I have been struck since yesterday in reflection that the great spirits in all four realms have often overlapped these realms: the scientists who see reality better through music; the scientist who sees the mind of God in physics and so forth. This should come as no surprise. Reality, after all, is not a bunch of different things. Reality is fundamentally one thing that looks different from different points of view. That last sentence is another example of overlap, since it was our religions that first taught humanity that reality is one thing. Scientists have been on the traces of the theory of everything ever since. The other thing Robert said was that there are only two commandments: to love God and to love otherness and that they amount to the same thing. Robert reminded me of the story in the New Testament (Luke: 10) where the lawyer asked how to live and Jesus replied to look to the tradition. The man then said to love God and neighbor, which Jesus confirmed. The lawyer then wanted to know how far “neighbor” went and Jesus replied with the parable of the Samaritan, a group that Jews of the time did not accept. In other words, love otherness. Judaism of Jesus’ time did not call this one commandment, but two. But Robert is surely right that they are one, even as the Sh’ma says that God is one.

Title: Happy Thanksgiving

Date: 2010-11-25T07:37:00.001-05:00

11/25/2010—The Chronicle of Higher Education has a story today about Sarah Palin's comment in her book that most college professors don't believe in God and regard religious believers as alien and ignorant. The story refutes this, but I wonder if there is not truth to it on a deeper level. What after all is the religious belief of most Americans, including college professors? When people say they believe in God, do they mean a personal being who intervenes in the world when requested? That is what Palin means and many educated people find that belief rather alien even if they say they do believe in God. Such a God, which is the God of the Bible only in part, contradicts the regularity of science. On the other hand, today at Thanksgiving tables all over America, people will give thanks for their blessings, college professors too. They will not all be thanking a being who gave us these things and might take them away. But they will all be acknowledging that we are not the authors of our own stories. We rely on many things—family, friends, luck, social forces beyond our control and also something quite mysterious that the religions sometimes call grace. Palin is wrong that there is not common ground here between believers and nonbelievers. But who is responsible for the plausibility of her criticism? We secularists are. So today if you do not believe in God, make sure especially to express your gratitude to everything that is for everything you have.

Title: There is no G-o-d in America

Date: 2010-11-30T15:14:00.002-05:00

11/30/2010—Just as there is no I in team, there is no god in America. I received an email from Mark Tooley of the Institute on Religion and Democracy insisting on America's divine calling. Here is an excerpt: "Many left-leaning and often anti-American preachers and theologians are distressed by American 'exceptionalism,' the idea that our nation has a unique providential purpose. A recent poll showed most Americans believe God has a "special role" for America in history. White evangelicals are the most inclined to believe it, but minority Christians also strongly believe it, followed by fewer but still a majority of Mainline Protestants and Catholics. Read my commentary in the American Spectator." What kind of Christian theology is this? America is an empire, not much different from Rome. And of course it behaves like one, as the Bible would foretell. The American people are like other people—we are not going to sacrifice our standard of living in order to protect the climate or do anything else unless we are forced to do so. We are no worse than any other people, but no better. This would come as no news to Reinhold Niebuhr, but apparently conservative Christians have now become idolaters, worshiping the nation. Just to remind everyone, the Hebrew slaves were faithless in the desert, wanting nothing more than to return to Egypt. And they were the chosen people. Why should Americans be regarded as any better? What we see here is the worst kind of modernism—the kind that pretends to be conservative and to be upholding traditional values. Sure Tooley does that when it comes to gays. But when it comes to something of self-critique, he wants reassuring ease, not the Gospel.

Title: Seeking Common Ground: A Secular Statement

Date: 2010-12-05T05:52:00.005-05:00

12/5/2010—My article, *Seeking Common Ground: A Secular Statement*, has now been published by Hastings Constitutional Law Quarterly. It is available to anyone at bepress ([here](#)). The article introduces and develops themes from my forthcoming book, *Church, State, and the Crisis in American Secularism*, which will be published by Indiana University Press in May 2011.

The article tries to show that objective morality—the idea that some things are actually wrong rather than just wrong in my opinion—is a commitment available to religious believers and nonbelievers. Can a person believe in objective morality without believing in God? Sure. The noted atheist Sam Harris made just such an argument in *The Moral Landscape: How Science Can Determine Human Values*. (I don't think science can do that but that's another issue for another time).

The threat of nihilism is not something to be taken lightly. The article begins with a quotation from Justice Anthony Kennedy's opinion in *Lee v. Weisman*, the case that prohibited prayers at public high school graduations:

"We are asked to recognize the existence of a practice of nonsectarian prayer, prayer within the embrace of what is known as the Judeo-Christian tradition... . If common ground can be defined which permits once conflicting faiths to express the shared conviction that there is an ethic and a morality which transcend human invention, the sense of community and purpose sought by all decent societies might be advanced. But though the First Amendment does not allow the government to stifle prayers which aspire to these ends, neither does it permit the government to undertake that task for itself."

Morality that transcends human invention is something I believe in. I stake my life on it. So do many of you. So does Justice Kennedy. We mistakenly think that religious belief is the crucial issue. It is not. Right and wrong are closer to the crucial issue and there we can find common ground.

Here is the abstract of the article:

Religion has its uniqueness, which is feared in the Establishment Clause and protected in the Free Exercise Clause. But religion is also part of a larger tradition that transcends religion and includes much of philosophy and political theory. That tradition was characterized by C.S. Lewis as the "doctrine of objective value". It has been called by other names, such as civil religion, higher law, natural law, even religious naturalism. That tradition may be established by the government without violating the Establishment Clause and its practice is protected more by free speech than by free exercise. As the reference to "their Creator" as the source of rights in the Declaration of Independence illustrates, that tradition can be symbolized through religious imagery. That tradition is currently promoted through displays of the Ten Commandments and public references to God. But the tradition is not religion. It shares common ground with religion.

The failure to recognize this tradition as separate from religion, and to celebrate it, has led to numerous mistaken commitments. It has led the New Atheism toward relativism and even

nihilism. It has obscured the natural law aspect of the Constitution exemplified in the Ninth Amendment, a natural law orientation that is anything but “godless”. It has caused the Supreme Court to overlook the “common ground” of values clearly present in American society and history. It has misled Justice Scalia into promoting the worship of the biblical God, when other formulations of God-language would alleviate constitutional disputes about religious imagery without sacrificing societal thanksgiving and even praise. In general, this failure has prevented the celebration of common meaning between religious believers and many nonbelievers.

Use of God-language and the Ten Commandments to promote this tradition does not lead to debased, “bleached faith” because religious believers agree that there is common ground with this tradition, although for the believer it is religion that represents the larger tradition and it is the nonbelievers who share only partly in the Truth. In Christianity, for example, the “hidden Christian” and the human conscience are said to represent common ground with nonbelievers and non-Christians.

The recognition of this common ground will not only clarify and resolve many Establishment Clause issues, but will allow formation of new political coalitions, as secularists and religious believers come to value their shared commitments. Such recognition will also deepen secularism itself and reorient it to the perennial questions of human existence.

Title: Uphold Proposition 8

Date: 2010-12-08T08:36:00.001-05:00

12/8/2010—Readers of this blog know that I opposed Proposition 8, which reversed the judicial imposition in California of same-sex marriage. But I liked Prop 8 anyway because it allowed for a public referendum on the issue of gay marriage. I just was disappointed in the outcome. Despite my support of gay marriage, I hope the Ninth Circuit Court of Appeals reverses District Judge Vaughn R. Walker's ruling striking down Proposition 8 on grounds of discrimination. My reason for this is prudential rather than legal. I don't want to fan the resentments of many Americans that they are treated like subjects rather than citizens. I don't want the courts to try to solve the social issue of gay marriage like they tried to fix abortion back in 1973. I want gay marriage left to the democratic process. I especially feel this way because California already has the category of Registered Domestic Partners, which although I'm sure is not precisely the same as gay marriage, does seem to alleviate the obvious and specific discriminations that gay couples would otherwise face. Given the status of domestic partnership, the case against Proposition 8 amounts to forcing the people of California to take a symbolic stand endorsing gay marriage. This seems to me to be harmful to democracy. While the courts did basically the same thing for mixed race marriage that they are being asked to do here, the courts acted very late in that instance, 1967, long after national sentiment had changed on the issue of race. Count me as a judicial conservative who thinks that this discrimination against the rights of gay people should not yet be overturned by the courts.

Title: Hallowed Secularism and the Tea Party

Date: 2010-12-11T06:01:00.006-05:00

12/11/2010--On November 28, Jeffrey Rosen, a Professor at George Washington Law School, wrote a piece in the New York Times about the "Radical Constitutionalism" of the Tea Party movement, exemplified by newly-elected Utah Senator Mike Lee. Some Senator Lee's understanding of the Constitution involves limiting the power of the federal government in favor of the States, which is a constitutional position with a long history in America. Some of it is new, as in Senator Lee's criticism of the popular election of Senators. But the aspect of Lee's constitutional vision that most caught Rosen's eye is his debt to W. Cleon Skousen's 1981 book, *The 5,000-Year Leap*, which "argued that the founding fathers rejected collectivist 'European' philosophies and instead derived their divinely inspired principles of limited government from fifth-century Anglo-Saxon chieftains, who in turn modeled themselves on the Biblical tribes of ancient Israel." Skousen is not an admirable figure by any means. As portrayed by Rosen, he is virtually an anti-Semite. But what is of interest to me is Skousen's mix of individualism and religion. Skousen viewed his Mormon Church as the country's salvation and the Constitution as divinely inspired. But at least as currently interpreted by his followers, including Glenn Beck, he is no Christian Nationalist. Yes, the States are not limited by the Establishment Clause, which was aimed only at the federal government (historically true, by the way), but the States should not use this freedom to pick a winner in the religion wars. Again, according to Rosen, "Skousen would encourage the states today to require 'universally accepted' religious teachings in public schools, as long as they don't favor one denomination over another." The problem is that there are no "universally accepted" religious teachings, not even among those who call themselves Christians. Skousen's core commitment here is to "unalienable rights and duties that derive from God" and he insisted that this religious commitment gave the founders their political philosophy. This is precisely the theory of objective values and unless the Declaration of Independence is unconstitutional, it cannot be a violation of the Establishment Clause to teach it in public schools. Skousen's mistake was thinking that this is a "religious" view. It was only that in part even for the framers. For some of them, the political truly came first: rights were more real than God. And millions of secularists like me believe fully in the reality of objective values without believing that God exists. There is much more room here for common ground than Professor Rosen and even Senator Lee may think. Of course, this is all the core message of my forthcoming book, *Church, State and the Crisis in American Secularism*.

Title: A Fundamental Rights Decision Masquerading as a Commerce Decision

Date: 2010-12-14T15:25:00.002-05:00

12/14/2010—So, a federal judge says requiring people to purchase health insurance is beyond Congress' Commerce power. And just what is so sacrosanct about buying something? What could be clearer than that Congress is in fact regulating a national industry in this way? That is about as commercial as you can get. Once before, in 1942, Congress forbade a wheat farmer from growing wheat for his family to use so he would have to buy wheat in the market. And that was constitutional. Congress could force people to buy health insurance by refusing emergency room service, which now everyone gets by law, or requiring ambulance crews to check health insurance. Or even providing national healthcare and then taxing everyone. Why is this one method such a big deal? The real reason has nothing whatever to do with the commerce power. Some people believe that forcing a citizen to buy a product is a violation of individual liberty. That is the real issue. So, why all the talk commerce? To speak of liberty would be to admit that now conservatives are insisting on rights not "in" the Constitution. Just like the right to have an abortion. Liberals would have a field day with that. As a commerce power decision, these challenges are absurd. As something more fundamental, maybe there is something to them. But we will never hear those arguments.

Title: Why Does the Government Celebrate Christmas?

Date: 2010-12-19T05:22:00.002-05:00

12/19/2010—I have a lot of sympathy for the complaint by Catholic League President William Donohue last week that Boca Raton was discriminating against Christians by buying menorahs and displaying them in public buildings without displaying manger scenes (story here). Lawyers recognize that Boca Raton was attempting to comply with a 1989 United States Supreme Court ruling from Pittsburgh that banned a manger but allowed a Christmas tree, a menorah and a sign saluting religious liberty (Boca Raton did not want to be that serious so its sign said Seasons Greetings). Donahue pointed out that the menorah is a religious symbol. So presumably if Boca Raton wanted nonreligious symbols, it should have displayed dreidels along with the Christmas tree. What is going on here is a cultural shift in which Christmas is increasingly becoming a “season” and a holiday independent of its origin as a celebration of the birth of Christ, the savior of all people. Many nonChristians put up Christmas trees and many nominal Christians do also, even though they don’t believe much of the Christian story anymore. We can see the shift in miniature in the difference between A Charlie Brown Christmas, which debuted in 1965 and How the Grinch Stole Christmas, which debuted the next year, 1966. Charlie Brown is serious Christianity. The birth of the savior is central and is highlighted by Linus’ reading from the Gospel of Luke. The message is anti-commercialization of Christmas. In contrast, the story of the Grinch, though also deriding the commercialization of Christmas, implies that the meaning of Christmas is family and friendship. There is no mention of Christ in it. Government wants the Grinch and not Charlie Brown. Or rather, government actually wants lots of commercialization for the sake of the economy, so government wants whatever will help that along. Secularists don’t have to worry about these trends. They are ongoing. The happy time of the Christmas season is a gift from Christianity to an increasingly nonChristian society. We should be grateful. One way to say thank-you would be to stop carping about mangers. Next year, let’s have Christmas trees and menorahs and mangers and celebrations of Kwanzaa and the Eastern Orthodox Christmas and the solstice and, at the appropriate times, Islamic, Hindu and Buddhist celebrations also in public spaces. Let’s become a culture that shares all of its celebrations and does not worry about using symbols that are too meaningful.

Title: The Repeal of Don't Ask Don't Tell

Date: 2010-12-23T16:03:00.002-05:00

12/23/2010—Of course the signing into law of the repeal of DADT was a great accomplishment. But any joy over the change is diminished by two realities. First, why in the world was this change so difficult to bring about? For all the talk of bipartisanship, and there was Republican support, the repeal required an overwhelming Democratic majority in order to block a Senate filibuster. The repeal simply would not have happened in the next session, with its larger Republican representation. So, unlike race and religion, equality in this arena is still a political issue. It is still permissible in America to deny someone the right to serve, in fact die, for his or her country because of the gender of that person's sexual partners. That seems unbelievable. But that is not the worst part. The source of this bigotry is largely, almost exclusively, religious. And people wonder why organized religion is dying. I don't think young people care that much what attitude our religions take in terms of their own members. So, if many Christians consider homosexuality a sin, that is certainly their business. However, the church is clearly imposing its own sexual ethics when it comes to the military. This is not even as justified as religious opposition to gay marriage. At least when it comes to marriage, our religions have always had a civil role to play. There is no such justification when it comes to military service. It was not necessary for religious conservatives to claim that the Bible opposes gays in the military. There never was any theological justification for such a position—the military is engaged in killing after all, so its fundamental sinfulness in terms of the Gospel dwarfs any concern about sex. But there also was not any institutional justification. These religious groups could just have stayed out of it. The fact that Christian conservative found it necessary to go to extreme lengths to oppose the repeal of DADT marks the Church in the eyes of many as a bigoted institution. It is just one more nail in the coffin of proclamation of the Gospel.

Title: Merry Christmas Season

Date: 2010-12-24T08:26:00.001-05:00

12/24/2010—In the early Harry Potter movies, characters are always wishing Harry “Merry Christmas” even though Christianity plays no role in the series as such (they are witches and wizards after all). I wish we could be that easygoing about religion in America, but we can’t. Here, the choice of holiday greeting is fraught. Is it Merry Christmas or the more secular Happy Holidays? So here is my suggestion: Merry Christmas Season. It certainly is a merry time of year and for that we plainly owe historic Christianity. So, whatever your religious or nonreligious tradition, please enjoy family and friends and have a very merry Christmas season.

Title: Natural Goodness

Date: 2010-12-28T16:00:00.002-05:00

12/28/2010--The great moral philosopher Philippa Foot died this year, on October 3. I did not know much about her before reading about her death in the New York Times magazine last Sunday. So much the worse for me, for Foot was quite the hallowed secularist. She argued that moral judgments have a rational basis. Her best-known work was *Natural Goodness*. Reading Foot we can see that there are two questions present in the question often attributed to the evangelist Rick Warren and responded to recently by the humanist Greg Epstein in *Good Without God*: can people be good without a belief in God? (Warren believes no). On one level, this question asks whether people will in fact go on being good without a belief in God? No one knows the answer to that. There has never yet been a genuinely secular society, one without some sort of transcendent reality at its core. This is an issue of social morale. Since we are becoming more secular, we will find out the answer to that question eventually. But there is a much more significant issue in Warren's age-old question. Namely, is there any such thing as "good" without God? Another way of asking that is Nietzsche's description of nihilism: "What does nihilism mean? It means that the higher values have depreciated; that the ends have vanished; that there is no longer any answer to the question, 'What's the use?'" What makes us think that there is any point to being what we used to call Good? What makes us think that certain actions are good and others bad? Without God, why not do anything at all? The universe doesn't care what we do. Foot's great achievement was to describe human vice as a natural defect, not a matter of opinion and not an imposition on the universe of normative judgments the universe lacks that humans make up. She wrote, "I want to show moral evil as 'a kind of natural defect'.

...[T]he fact that a human action or disposition is good of its kind will be taken to be simply a fact about a given feature of a certain kind of living thing." I like Foot because she is so straightforward and there is no smell of Aquinas about her. (I only mean by that, that because she was an atheist, she was apparently not all clutched up about Church teachings on sexual morality. This preoccupation prevents me from really appreciating Alasdair MacIntyre, for example.) I think we are going to appreciate and learn from Foot more and more in the future.

Title: What Does “one Nation under God” in the Pledge of Allegiance Mean?

Date: 2010-12-30T17:07:00.001-05:00

12/30/2010—Happy New Year to you all. During exam grading time, professors catch up on their reading, which in my case includes back issues of the New York Review of Books. Back in November, Geoffrey Wheatcroft reviewed two books criticizing the American war on terror: *The Irony of Manifest Destiny*, by William Pfaff and *The Icarus Syndrome*, by Peter Beinart. (review here). Both books criticize the arrogance of American foreign policy, but Wheatcroft is clearly of the view that Pfaff has been mostly right about everything for a very long time. For example, Pfaff opposed the war in Vietnam, saw early on the weakness in the Soviet system, criticized the “ideology of national triumphalism” especially after the fall of the Soviet Union (he called for reduction in American military forces) and does not believe in the enormity of the Islamic radical threat. Pfaff has been right time after time. What is the role of religion in our misguided foreign policy? Pfaff calls our current path “the secular utopian ideology of promoting universal democracy” and Pfaff traces its roots back to the religious exceptionalism of the American founding that has always assumed there is a unique American virtue. So, you could blame our hubris on our biblical heritage. But here we return to the phrase “one Nation under God”. Clearly the phrase can mean precisely that America is uniquely God’s instrument. That is what George Bush, for example, believes. However, “under God” can also mean, and always also did mean, subject to God, subject to divine judgment if we contravene God’s will. And in our arrogance and violence, we can be seen to be doing exactly that. We have in that understanding a powerful resource of critique, one that would speak to religious believers otherwise tempted to worship the State (at least in its wars). I have not figured out why global warming does not strike religious believers as God’s punishment for the misuse of His creation out of greed. That is exactly how a Reinhold Niebuhr would have seen it. Maybe we need more religion in the public square, rather than less.



POSTS:
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Title: The Incredible Shrinking Free Exercise Clause

Date: 2011-01-03T16:14:00.002-05:00

1/3/2011—We don't know who will win the case about anti-homosexual protests at military funerals that was argued on October 6. The Supreme Court will probably rule sometime this Spring. But we already know the loser—the Free Exercise Clause of the First Amendment. The case, *Snyder v. Phelps*, pits the right of protest by Westboro Baptist Church against family privacy rights. The family sued the Church and won \$7.9 million in compensatory and punitive damages, which was later reversed by the Fourth Circuit Court of Appeals on the ground of freedom of speech. (The protesters stayed on public property the entire time of the protest). While probably most law professors, myself included, believe that the Court must rule for the Church, there is precedent for upholding privacy rights even against protests on public property if a family home is targeted. The problem is it is difficult to see how a ruling based on privacy could possibly be limited. Nevertheless, the free speech aspect of the case is not the most important thing in terms of the Constitution. The important question is how this became a free speech issue at all. During oral argument, counsel for the Church, who is also the daughter of the pastor, made it clear that these protests are held to promote a religious message. The protesters are giving a warning of God's wrath for the sin of homosexuality and they feel they are religiously bound to deliver that message. Thus the case seems tailored made for a claim under the Free Exercise of Religion Clause of the First Amendment. And the Church did in fact raise that defense, but that claim not only added nothing to the free speech claim, the religious claim was probably pretty weak. The problem is that the Supreme Court held in 1990, in *Employment Division v. Smith*, that religious belief is never a defense to the violation of generally applicable law, that is, law that is not aimed at religion. Thus, for example, during Prohibition, religious believers requiring wine for religious ceremonies, such as communion, would have no constitutional right to an exception from the general ban on alcohol. The odd thing is, many constitutional rights, for example free speech, can be asserted against generally applicable laws. So, a law that banned all gatherings of more than 20 people, whether for a party or for a demonstration, could be challenged as a violation of the right of free speech and assembly, but not as a violation of the right to religious worship. Or, as in an actual case, parents might have a right as parents to keep their children from required education past a certain age, but there would not be a specifically religious right to do that. So there is a hierarchy of rights in which, surprisingly, religion is a minor right. There is nothing in the Constitution to justify this second class status. Nor is it clear why the Court treats religious claims as so insubstantial.

Title: So Why Isn't the Food Bill Unconstitutional?

Date: 2011-01-06T15:40:00.001-05:00

1/6/11—Allow me to move from religion for a moment to vent about the absurd constitutional theories that are floating around right now concerning the power of the federal government. You have probably heard about an enactment that greatly expands federal government power in pursuit of a police power objective of public health that the Constitution left with the States and that has little or nothing to do with interstate commerce that Congress is permitted to regulate. But I am not talking about Obamacare, which is so controversial. I am talking about the Food Safety Modernization Act, that was signed into law this week, giving the Food and Drug Administration more oversight of the nation's food supply chain. Naturally I have not heard one word of protest from the so-called originalist/states rights people calling this law unconstitutional and urging its repeal. But this law is plainly premised on the protection of the health of the people, which is precisely the police power rationale that one federal judge used in order to judge Obamacare unconstitutional. Indeed federal oversight over farming is much more plainly not regulation of commerce than is regulation of healthcare, which is much closer to interstate activity than the local activity of farming. The reason no one calls this unconstitutional is because it is popular and plainly needed. Well, maybe Obamacare will become popular. It was certainly needed. Or maybe the reason for the different treatment is that rich people can get sick from food poisoning, but such people already have adequate healthcare. The example of the new food law, however, shows that fundamental constitutional reinterpretation is not likely. Most people want a government strong enough to solve our nation's problems.

Title: The Violence of the Secular

Date: 2011-01-09T18:42:00.001-05:00

1/9/2011—One of the most often repeated criticisms of religion by its detractors is its tendency to violence. From the Crusades to the Wars of Religion to the assassination of Salman Taseer, Governor of Pakistan's Punjab Province, who was killed on Tuesday, January 4, no one can deny this terrible tendency. But one of the messages of the neo-orthodox movement, particularly by the Christian theologian John Millbank, is that religion carries a promise of peace, while the secular, with its inevitable conflicts of self-interest, can only practice violence or repress it. There is no possibility of peace in a secular world. Millbank by no means tries to justify or deny religious violence. His point is that violence in that realm is the result of failure and can be rectified. Not so with the secular. I'm thinking of this, of course, in light of yesterday's horrific events in Arizona. Those events raise real questions about the violent rhetoric used in American political life particularly by anti-government voices. We all hope that these killings usher in a new tone in politics. But on a deeper level, killing people over healthcare differences or taxes or whatever motivated this killer, seems simply weird. At least the killings of abortion doctors, as horrible as they have been, seem comprehensible. The killers believe they are taking the law into their own hands to save human lives. How in the world have we come to the point where higher taxes or more government regulation of the economy or whatever can motivate killing people? Our differences today are not all that significant. Obamacare was patterned on earlier republican proposals. The tax rate controversy was over a 34% or 39% tax rate. None of this seems that crucial. Yet, our politics have clearly become red-hot. Millbank would say this is the result of a secular worldview in which fundamentally, as Hobbes said, we are all enemies to each other. Religion may sometimes lead to violence. But perhaps the absence of religion does so all the more.

Title: The Atheist Wars

Date: 2011-01-14T08:55:00.003-05:00

Little did I suspect last Sunday, when I posted here concerning the violence of the secular that there would be a political back and forth over which "side" is responsible for the violence of the Tuscon shootings. Jared Loughner, the apparent shooter, does not seem to have been either religious or a self-proclaimed atheist. My point in the blog had to do with "secular politics," which is what our political system is, even though of course, religious believers participate. The question for me has to do with the assumptions of political life. Are we self-interested, rational consumers or are we at least potentially something more? But on Tuesday, Lauri Lebo weighed in on Religion Dispatches to the effect that conservative religious groups were blaming atheism for the shootings ("New Theory for Tuscon Tragedy: Blame the Atheists"). As one person put it, "It's actually very simple,' [Ted] Shoebat was quoted in Special Guest's promotion, 'When God is not in your life, evil will seek to fill the void.'" The irony of all this is that secularists like Christopher Hitchens and Mark Lilla have argued for years that religion in politics leads to violence and the only way to have peace in political life is to strictly limit the role of religion in the public square. Loughner reminds us that When God is not in your life you may turn to violence and that when God is in your life, you may also turn to violence. So we really should step back and not criticize the "other side" for now doing what "our side" has been doing all along. No one has a monopoly on violence. No one has yet figured out how to build a just and peaceful world.

Title: So, is this the post-secular age or not?

Date: 2011-01-18T06:10:00.003-05:00

1/18/2011—Last week, 1/8, I attended the Law and Religion section at the AALS (American Association of Law Schools) convention in San Francisco. The topic, which I had helped to formulate, was “Law and Religion in a (Post-) Secular Age”. The question was to be, are we secular or post-secular, and what might that mean.

There has been a lot of talk about the post-secular age. The basic idea is that progressive western thought in the 17th century on, more or less, and certainly in the age of Freud, Marx and Feuerbach, expected religion to wither away with the growing acceptance of modernity. This was known as the secularization thesis.

However, in recent years, religion has been making a comeback all over the world as a force shaping the modern world. Habermas has had a lot to say about that shaping function. So, the thesis is wrong and all that talk about coming secular society is false. Religion must get a more respectful hearing in the public square, therefore.

Charles Taylor, to my mind, has a better take on all this by pointing out that the secular is deeper than the resurgence of religious practice. It is a way of life in which religion is merely an option. This seems increasingly the case, despite ferocious enforcement of blasphemy laws in the Muslim world.

Paul Horwitz set up the issue really well (and introduced his soon-to-be-released book, *The Agnostic Age*). But the panel did not respond in full. They seemed to agree that religion is more important than before; certainly they were more respectful than any secularist would have been any time before. Andrew Koppelman described the current American system of neutrality as religion friendly. He pointed out that secularism is a Christian product, a la Taylor. He looked forward to new forms of religion emphasizing human benevolence. Emily Hartigan called herself an avowed post-secularist looking to the “something beyond”. She could not have been more religion friendly. Charlton Copeland strongly emphasized the religious tradition in the African-American community and that its presence has never gone away in any sense. And Ayelet Shachar, also describing us as in a post-secular age in which secular and religious law are entangled.

But below the surface, the old secular tensions seemed to me still to be present. When the panel began to discuss specifics, the religion-friendly veneer began to wear. Shachar, for example, was happy to have religious courts grant “purely religious divorces” but was wary of religious law that gave less material support to women than does secular law—as if religion has to do only with the spirit and not with property. Koppelman’s neutrality is on secular terms, after all. Hartigan’s radical epistemological pluralism might render traditional religions outdated (though this is not her goal, certainly). She referred to government neutrality as “aspirational”. She meant this in the sense that the secular is not really neutral, but then something is and it can’t be Christianity and Judaism. Copeland practically condemned faith-based initiatives.

My point is only this—the old anti-religious bias, at least the old anti-organized religion bias was still pretty much on display. The panel seemed to me to return pretty quickly from the post-secular to the secular.

One question from the floor brought the tension to the surface: is the state really sovereign? Now there is a post-secular question. But I think the answer on the panel was basically, Yes, right out of the secular playbook.

Title: Religion Dispatches Publishes Ledewitz Piece on the Free Exercise Clause

Date: 2011-01-20T17:55:00.002-05:00

1/20/2011--Regular readers of this blog are aware of my concern about the United States Supreme Court's rejection of the Free Exercise Clause of the Constitution as a robust protector of religious liberty in the United States. For development of that theme, check out today's edition of the online magazine Religion Dispatches: Freedom of Religion Quietly Demoted.

Title: Americans United for Separation of Church and State

Date: 2011-01-22T09:47:00.002-05:00

1/22/2011—I have been invited by the Delaware Valley Chapter of Americans United for Separation of Church & State to submit a proposal to speak April 9 at the their second Church/State Issues Symposium at the National Constitution Center in Philadelphia. Below is my proposal and I hope to see some of my readers there in April:

Higher Law in the Public Square: A New Interpretation of Church and State

Duquesne Law School Professor Bruce Ledewitz will introduce a new understanding of government neutrality and the separation of church and state from his new book, *Church, State, and the Crisis in American Secularism*, which will be published in May by Indiana University Press. The proposal originates from the ferment in secularism today over sources of meaning. Even critics of religion, such as Austin Dacey, have observed that secularism has “lost its soul” in post-modern uncertainty about relativism and the objectivity of values. Professor Ledewitz proposes that government, while neutral about religion, cannot and should not be neutral about the objectivity of right and wrong and the reality of justice. Religious images and symbols, such as Ten Commandment displays and God-language, can serve as legitimate expressions of such higher law commitments as long as government’s assertion of secular meaning is plausible. The fact that religious believers interpret religious language in sectarian terms does not invalidate its shared, universal meaning. In similar fashion, the reference to the Creator endowing unalienable rights in America’s founding document, The Declaration of Independence, was not a statement about the existence of God, but about the existence of rights beyond human invention or denigration. Religious language was used to show that rights are not the gift of Kings or Parliaments. The point of this higher law proposal is not to promote religion but to enrich secularism. Its political impact, however, is also to demonstrate a welcome common ground among monotheists, minority religious believers and nonbelievers.

A friend of mine suggested that it would be nice if my proposal did not require “denying God”. I responded to him as follows:

I hope to do this by leaving the God question open: already an empty space for others and for me, already full for believers. The government asserts nothing but that belief in God led to certain conclusions, the reality of goodness, that no society can afford to surrender. The government is not a philosopher and does not explain how the conclusions can be true without the tradition that gave rise to them. It is crucial to me that no authoritative voice can ever be said to deny God under my proposal. That is why the proposal might lead to peace.

I take it that not denying God is both crucial to religious believers and not entirely clear from my earlier formulations. While I cannot accept God, it really is not government’s place to have an opinion about any religious issue, including the existence of God, even if government is using religious language among other kinds of language to make a nonreligious point.

Title: It is not Pro-Life to Kill a Woman

Date: 2011-01-27T22:49:00.002-05:00

1/27/2011—I'm not sure why I only now am learning about the denouement of the abortion performed by St. Joseph's Hospital, a formerly Catholic affiliated hospital in Phoenix. The hospital performed the abortion, which is not the term used by the hospital, in 2009, after doctors at the hospital determined that continuing the pregnancy would endanger the life of the mother. According to USA Today, the doctors estimated the risk to her life at "nearly 100%". On December 22, 2010, Bishop Thomas Olmsted removed the hospital's affiliation with the Church and stated that any Catholic formally involved in the decision is "automatically excommunicated". To an outsider, these decisions seem ludicrous. Looked at more closely, the Bishop's objection is coherent, if legalistic. But it is still wrong. The Bishop was not objecting that the fetus died in the course of treatments to save the life of the mother. But such a death can only be justified as a secondary effect of a treatment aimed at saving her life. Bishop Olmstead characterized the hospital's decision as "directly" killing the fetus in order to save the mother's life, rather than treating the woman, which might well have killed the unborn child. But if this was indeed the ground of the decision, there is something gravely wrong with the Church's teaching on abortion. It is true that in American law, one may not take one life in order to save another, such as killing one person so that several other starving people would have something to eat. But in this case, the unborn child was only 11 weeks old. It was not even a case in which either the child or the mother had to be sacrificed and the hospital chose the mother. The death of the mother insured the death of the child anyway. So failing to end the life of the child would have merely led to the death of both. The Church's position is that after conception, the unborn child is fully human and is fully equal in dignity to the mother. That is a position I have trouble accepting or even taking seriously. But even that view of the unborn child should not have led the Bishop to condemn the hospital for taking the only action that could save any life.

Title: Amy Chua and the Mommy Wars

Date: 2011-01-30T07:31:00.002-05:00

1/30/2011—Amy Chua used to be a serious person. Her 2003 book *World on Fire* argued that democracy in a free-market globalizing context unleashes powerful ethnic and other hatreds, including resentment against the United States and Israel, which are expressed in religious terms. Her second book, *Day of Empire*, “examine[d] seven major empires and posit[ed] that their success depended on their tolerance of minorities.” (from Wikipedia) She was and is a Yale Law Professor. But now she has published a memoir of raising her two daughters using strict, sort of Chinese techniques, *Battle Hymn of the Tiger Mother*. She might as well have written *Fear of Flying*. I would not read the book and I don’t have to. I did read a long excerpt in the *Wall Street Journal*. All I had to read was the phrase “tons of studies” to know that Chua had written, ironically, a lazy book. Instead of pushing herself to do her job, instead of continuing to contribute to international affairs, instead of even doing serious study of parenting, she chose to push her kids and then crow about it. Talk about Western self-indulgence. Why did no one ask her whether Chinese mothers write memoirs? I’ve seen this script before and I have one piece of advice for these strict mothers, or fathers: push yourself and leave your kids alone. There are many ways to raise a child. The most important ingredient is love. The goal is a healthy person. Working through the night on a piano piece without stopping to go to the bathroom is very likely to lead to a neurotic. There are much better ways to teach tenacity. And compassion. Maybe this lifestyle will work out for Chua’s kids. As I say, there are many ways. But you can tell that Chua never did much oral argument as an attorney. If she had, some judge would have told her that an anecdote is not an argument.

Title: How is Religion Special?

Date: 2011-02-02T05:06:00.002-05:00

2/2/2011--On Sunday, Robert Marus responded to my essay in Religion Dispatches about the diminished protection of religion under the Free Exercise Clause. Marus argued that while this was true, it was also true that the Establishment Clause was shrinking as well. Both trends he said were a threat to religious liberty. Marus pointed to several trends in which religion and government intermix: the use of faith-based organizations to deliver government services, the use of vouchers to allow indirect funding of religious schools, the decline of the Lemon test to restrict government funding of religious institutions, and the equal treatment cases requiring government institutions to fund religious activities—such as student groups—when they fund anything else. The effect of all this is to treat religion as just another interest group, which is what the Free Exercise Clause cases also do. Undoubtedly, the Establishment Clause recognizes religion as unique. It is one activity in society that government may not fund, hence not establish. And it is certainly true that the framers did not want tax dollars going to all religious activities any more than they wanted tax money to go to one religion only. So, it is true that no-establishment means not supporting religion and not just not picking one religion. But what if religion is special in another sense as well? What if religion is special in what it can contribute to society? Then that should be recognized also. I argue in my forthcoming book, *Church, State, and the Crisis in American Secularism*, that religious language, images and symbols have a unique role to play in the struggle that an increasingly secular society is engaged in over meaning itself. In certain contexts the government may use traditional religious language to combat the specter of relativism and nihilism. This is not an endorsement of religion but of objective value. One can go farther. Government should not be neutral about the meaning-making institutions in society. It is still true that government may not support religion per se. But when government supports the private choices of religious expression, along with other secular expressions of meaning, it is supporting unique bulwarks of a healthy society. Those school vouchers, for example, will one day also go to deep ecology schools and to secular humanism schools. Yes, religion is special. And government must be careful not to endorse religion. But that special quality points to the crucial role religion can play in a secular age.

Title: What is the Relationship Among Democracy, Religion, Science and Capitalism?

Date: 2011-02-05T06:12:00.002-05:00

2/5/2011—I am giving the students in my Secularism course (“Secularism and Religion in the Public Square”) an assignment this coming Tuesday, which, although it is given urgency by events in the Arab world, was planned before the semester started. The assignment is to chart the possible relationships among democracy, religion, science and capitalism and then to come to some sort of provisional judgment. To simplify, I suggest a grid running from necessary to good to bad to fatal. Thus for example capitalism might be necessary for democracy, good for democracy, bad for democracy or fatal for democracy (as Marx would have said). And the relationships also run the other way. Democracy might be good for science but bad for religion. Some mathematician in the class will have to tell me how many possible relationships there are in all. Since with each category, starting with democracy, there are 12 possibilities and there are four starting points, I think the total number is 12 to the fourth power. Events in Egypt have given impetus to these questions. Democracy in Egypt might be impeded by the likelihood of formal religious participation—the Muslim Brotherhood—and the lack of an open economy and scientific tradition. (Obviously, this example suggests other variables as well, for example equality of women and a free media.) We have conflicted ideas about the above relationships. Some Americans think that a religious democracy is impossible. Others, that a secular democracy is impossible because of an implied long-term descent into nihilism. The same conflict is apparent in our thinking about economics. With regard to China, many Americans believe that a vibrant, increasingly private economy must bring democracy. But domestically, we worry about the anti-democratic tendencies of corporate power. And there is a lot we don’t know. After the end of the medieval period in Europe, democracy, secularism, science and capitalism all eventually achieved their current status. But was this common ascent necessary or a coincidence? Think here of the Free Soil Party in the United States, which in 1848 adopted the slogan, “Free soil, free speech, free labor, and free men.”

2/9/2011—According to recent reports, at least 13 States have introduced bills against the use of Sharia or more generally foreign law in State courts. This past November Oklahoma adopted a statute by voter referendum that barred “state courts from considering international or Islamic law when deciding cases.” (The law has since been enjoined by a federal judge on Establishment Clause grounds. No final decision has yet been reached.) These efforts raise the question of when foreign law is usually utilized in State courts. Obviously, the overwhelming majority of cases in State court involve the enforcement of federal or State rights and thus the application of federal or State law, including federal or state constitutional law. Any kind of foreign law would come up in only a limited number of circumstances. One use of foreign law probably unaffected by these anti-Sharia laws is through analogy or support. For example, in 2005, in *Roper v. Simmons*, the United States Supreme Court found that the execution of murderers whose crime were committed before they were 18 violated the Eighth Amendment’s ban on cruel and unusual punishments. Justice Kennedy wrote for the majority that the United States “is the only country in the world that continues to give official sanction to the juvenile death penalty.” It is unclear whether this kind of comparative reasoning can be the subject of any sort of ban under the separation of powers. Foreign law also arises when State courts obtain jurisdiction over cases involving actions that took place outside the U.S. A party injured in an accident in Great Britain might sue a British company in a State court. In such cases, and other cases, “choice of law” doctrines often require the use of foreign law, in this instance British law. This might become forbidden but it is hard to imagine what law would be substituted. But the majority of cases in which foreign law is now used, especially religious law, involve contract actions in which the parties have agreed beforehand to utilize some specified legal source in resolving any disputes. In commercial disputes, this is often the law of some foreign jurisdiction. In divorces and other family law contexts, the courts might use Sharia to resolve custody and property division issues as per the parties’ prenuptial agreement. This is probably the context that the authors of these laws are thinking about. But the question is, why block use of Sharia when that is what the parties have previously agreed to? Aimed only against Sharia, these laws are a sign of religious bigotry. But written more generally to avoid Establishment Clause issues, these laws threaten ordinary commercial litigation.

Title: Happy Darwin Day

Date: 2011-02-13T07:01:00.003-05:00

2/13/2011—OK, it was probably yesterday—Darwin Day is a little vague. Nevertheless, this is the time to celebrate the scientific discovery of evolution. I just don't think religious people should be all that fired up about it.

Why are religious liberals so publicly supportive of evolution, when they don't say much about any other scientific theory, for instance quantum theory? Religious liberals do not even get as excited about greenhouse gases and global warming. A typical example—except much more thoughtful—is Paul Wallace, former Astronomy Professor and current divinity student, this week in Religion Dispatches: [Why Evolution Should Be Taught in Church](#). Wallace wants evolution taught everywhere, because we should live in “the real world, which is so beautiful and surprising and rich”.

The answer to the question about liberal religious support of evolution is theological and political. The fight over evolution is a fight over the nature of scripture and the nature of God. Liberal religion in America is more or less defined as opposition to a too literal reading of scripture. The more open reading of scripture allowed a more open understanding of what the symbol “God” might represent. Wallace specifically refers to “small-god-ism” as standing behind opposition to evolution.

As I argue in *Church, State, and the Crisis in American Secularism*, (you'll be able to read it in May), there are two levels to monotheistic opposition to evolution. On one level, that opposition is based on scripture, whether the Bible or the Koran. Evolution is just not how these books describe the universe and therefore the scientific accounts must be false. But this religious position must also ultimately oppose a great deal of science, including astronomy and geology.

The other level of opposition is highlighted by Philip Kitcher in *Living With Darwin*. Evolution may be surprising and rich and maybe even beautiful in its complexity, but it is certainly brutal and amoral. Kitcher does not so much argue as simply assume that evolution is a process inconsistent with any kind of caring God.

Wallace suspects as much, it seems, for he ends his essay with the following paragraph describing a kind of process God: “If ‘God’ is not large enough to contain this universe in all its immensity and complexity and age, then it's just not God. God is not a thing; God does not exist like we exist, or like the moon exists. God is like nothing we can know in language or image. God transcends these things and all we can know or imagine. This includes what we know of evolution, cosmology, geology, and any other science. Christians have absolutely nothing to fear.”

How exactly does this kind of God send his son to save the world, let alone resurrect that son? How does such a God have any plan or thought at all? How can such a God be described as good? More importantly, how do I pray to such a God?

Of course Christians have reason to fear Wallace's conclusion. Thinking along this line drove me out of Judaism. I agree that religion can come to terms with evolution, but only through radical change that might one day blur the line between belief and unbelief. Liberal religion has not yet seriously confronted this challenge and Wallace does not do so in his paean to evolution.

Title: Shari'ah and Constitutionalism

Date: 2011-02-17T04:27:00.004-05:00

2/17/2011—On Tuesday my students in *Secularism, Religion and the Public Square* and I discussed the relationships among Democracy, Religion, Science and Capitalism. (See post below). Naturally, one issue that arose was the compatibility of Democracy with a religious system, such as Islam. This is the question that worries some people both in America and elsewhere about events in Egypt.

Now, on one level, the incompatibility of religion and democracy is clear. The religious believer is committed to a truth other than democracy. Democracy can be nothing more than a means to an end. Thus, as perhaps occurred in Gaza with the elections in 2005, a religious party comes to power and then ends democracy. “One and done democracy”. Hamas just the other day rejected a call for municipal elections in Gaza. ([story here](#)) This is a controversial assertion with regard to Gaza only because America and Israel never accepted the election of Hamas as de jure and thus contributed to the end of democracy in Gaza.

The opposition of religion and democracy is not a new criticism. For many years the Catholic Church was accused of just such duplicity: using democracy to achieve Church goals but committed to neither democracy nor individual liberty in principle. This criticism has ended only because the Church has come to embrace democracy and religious liberty.

But what about a political system that guarantees full and fair elections but also contains an official role for religion in its constitution? Is such a system undemocratic? Certainly, any popular constitution in Egypt would have to contain a role for Islam because that is what most Egyptians appear to want.

The answer to the above question of course depends on what we mean by democracy. If democracy means that everyone above a certain age votes about everything, then having any sort of constitutional rights is inconsistent with democracy. In that case, Islam would be unconstitutional but so would the first amendment, about which we don't vote. For example, even if a majority in a state wants to make it a crime to burn the American flag, the United States Supreme Court will rule such a law unconstitutional, thus trumping democracy.

If the complete separation of Church and State is a necessary element in democracy, as some people in America believe, then any popular Egyptian system is certain to be undemocratic. But then Israel would also not be a democracy.

Israel's Prime Minister, Benjamin Netanyahu, described what he hopes for in a democratic Egypt in a [speech](#) to the Knesset on February 2:

“In Israel, we know the value of democratic institutions and the significance of liberty. We know the value of independent courts that protect the rights of individuals and the rule of law; we appreciate the value of a free press, and of a parliamentary system with a coalition and an opposition.

It is clear that an Egypt that rests on these institutions, an Egypt that is anchored in democratic values, would never be a threat to peace. On the contrary, if we have learned anything from modern history, it is that the stronger the foundations of democracy, the stronger the foundations of peace. Peace among democracies is strong, and democracy strengthens the peace.”

You notice Netanyahu said nothing about the separation of church and state. I think he is right that these are the elements of a constitutional democracy and that such a system would eventually yield a stronger peace between Egypt and Israel than exists now. On the other hand, the popular will in Egypt may today favor stronger support for the Palestinian cause and there is nothing in Netanyahu’s list that would render such a change undemocratic.

It is obvious that a role for Islam in Egypt is not in principle undemocratic, any more than the presence of constitutional rights in the American system renders it undemocratic. Yet in both systems, there is the possibility that democracy can be threatened by what are extra-democratic commitments. Plenty of Americans consider *Roe v. Wade* undemocratic, for example. One would have to see precisely what a presence for Islam in a future Egyptian political system entails.

Title: What is Behind the Republican Assault on Public Sector Unions?

Date: 2011-02-20T06:39:00.003-05:00

2/20/2011—Because of the recession, many States are experiencing fiscal distress. Since employee wages and benefits are a major portion of the budget of every State, it is inevitable that there will be tension between unions and Governors over where cuts can be made.

But what is happening in Wisconsin, and now in other States, is different. Led by Governor Scott Walker's plan to restrict the bargaining rights of State workers, Republican Governors in several States are trying to limit or eliminate collective bargaining rights of government workers. ([story here](#)).

Two forces are at work here. One is that many Republicans consider government to be "the problem" and government unions prevent or hinder reducing the size of government.

But much more significant is Republican antipathy to unions themselves. In part this is simple partisanship. Overwhelmingly, unions support Democrats with money and political workers.

Beneath that, however, is an ideology of individualism. Republicans tend to strongly support capitalism. Capitalism teaches that every person is, and should be, rewarded on individual merit. Its engine is self-interest. Conversely, unions teach solidarity, that we are members of a collective group and that we stand and fall together. To many Republicans, this sounds like socialism.

In Christianity, the difference between individualism and solidarity has always been recognized as a religious issue. Thus, the Catholic Church has always been a supporter of unions in particular and workers' rights in general.

Where is the Church today on these issues? It is hard to tell. Locally, Catholic and Protestant leaders may be involved in these struggles without the media seeing it as part of the story. So, the effort is largely invisible.

But I suspect that the Church has basically been silent. For one thing, the Catholic Church in America has lost a lot of its focus on social and economic justice and has become fixated on abortion and gay rights. Worse, a lot of Protestants have become enamored of individualism and no longer see the connection between unions and the gospel. (This would certainly dismay Karl Barth).

As for secularists, we certainly fall into the individualist camp, unfortunately. You never see the New Atheists saying anything much about economic issues and I doubt the word "solidarity" is even listed in the indexes of any of their books.

Ironically, individualism turns out to be bad for business. A large part of the problem of maldistribution of wealth in America is the result of the decline in private sector unions. Corporate America has been so successful in suppressing unions that it has taken a much larger share of the profits that business generates. This in turn has reduced the purchasing power of its potential American customers. Workers are consumers. The traditionally high wages of American workers created an internal market that enriched business. Now those corporate profits do not reward workers, but shareholders. Shareholders don't buy as many products as workers. So, the decline of unions has led to the decline of American economic growth. This has hurt American corporations.

Title: Is Unitarian Universalism the Answer?

Date: 2011-02-25T04:39:00.001-05:00

2/25/2011—Last Wednesday night, Reverend David McFarland spoke at the Allegheny YMCA Lecture Series on the occasion of the Allegheny Unitarian Universalist Church's 100th anniversary. It was an inspiring and entertaining talk. During the course of the talk, I asked Reverend Dave, as he is affectionately known in Pittsburgh, about the current age of secularism, especially among the young, and whether it presented a non-dogmatic church, such as his, a special opportunity? He answered, yes and no. Many of these secularists have decided to sleep in on the weekends. They would rather go to the park or work out or spend time with friends than engage in any sort of religious activity. Thus, they are not inclined to look to any church. On the other hand, when they do look, Unitarianism is a very congenial alternative. There has thus been growth among the young. Reverend Dave made the point that secularists do need a religious community whether they realize it or not. These other ways of life are fun and rewarding, but they do not present the opportunity to engage the deepest and most important questions and issues of human life. Nor do they give the support of deep community. He suggested that the fault here may lie in the Church. After all, who says religion has to look like religion? Who says you have to go to a particular place at a particular time? In the book *Hallowed Secularism*, I dismissed Unitarianism as too politically liberal, and thus too politically correct, to represent healthy religion. I still think that. And, of course, ironically, Unitarians could have a very traditional vision of God. So it wasn't for me. But listening to Rev. Dave, I have to wonder. Maybe there is already a model of *Hallowed Secularism* right here.

Title: The Power of the President Not to Defend the Law

Date: 2011-02-26T11:37:00.001-05:00

2/26/2011—In 1979, I wrote a law review article for the Tennessee Law Review entitled, The Uncertain Power of the President to Execute the Laws. The point of the article was that there were two models of executive power in American constitutional history: one, that the President himself executes the law and the other that the President can oversee execution but not necessarily do the execution himself. The tension between the two models accounts for the uncertainty of notions like independent administrative agencies and executive branch lawsuits to enforce the constitutional rights of the citizenry. These ideas are again in the news in light of the decision of the Obama Administration not to defend the Defense of Marriage Act in court on the ground of its alleged unconstitutionality. Though Attorney General Eric Holder was at Duquesne Law School on Wednesday afternoon, the day the decision was announced, he did not address the matter. The decision is not as constitutionally questionable as at first may have appeared. The President's job of course is to enforce the law rather than make judgments about the constitutionality of a law, which is presumably more a job for the courts. The Press Secretary, James Brady, made that exact point on Wednesday in making the announcement: "[t]he President is constitutionally bound to enforce the laws and enforcement of the DOMA will continue." In addition, the defense of the Defense of Marriage Act will also continue, apparently under the authority of Congress. Nevertheless, the decision raises troubling constitutional questions. I say this as a strong supporter of gay marriage, though I am pretty certain that the United States Supreme Court will not agree with the Administration that the law is unconstitutional. The President gets a veto. That seems to me to be the only chance a President gets to judge the substantive unconstitutionality of a law. Once it passes, defending it seems to me to be a part of enforcing it. (although the President does clearly have the authority to pardon those convicted under statutes the President regards as unconstitutional—see the Alien and Sedition Act.) I'm sure this has happened before, but it still sets a bad precedent.

3/1/2011—On Sunday, Howard Friedman posted the following note about former House speaker Newt Gingrich's Presidential campaign on his blog, Religion Clause: "Today's New York Times reports that as former House speaker Newt Gingrich gears up for a run for the 2012 Republican nomination for President, in his public appearances he is placing a new emphasis on religious faith. The Times says that on the campaign trail, Gingrich will: 'have to grapple with aspects of his life and career that could give pause to elements of the Republican primary electorate, including a lack of a well-established association with religious conservatives and attendant questions about his two divorces. So as he travels the country, he is striking two related notes: that the nation faces not just a fiscal crisis but also a loss of its moral foundation, and that his conversion to Catholicism two years ago is part of an evolution that has given him a deeper appreciation for the role of faith in public life.'" The Gingrich phenomenon may alter the unhealthy role that religion has played in American politics. If Gingrich really wants to run a faith oriented, or at least faith friendly campaign, he will have to run on the teachings of the Catholic Church. While there are plenty of people who object to that kind of mixing of religion and politics, I want to point to a different aspect of how that effort may play out. The Catholic Church is very difficult to place in terms of the usual political divisions in America. The Church is very anti-abortion, of course. The Church is anti-gay marriage, though not as enthusiastically as other religious groups. On the other hand, on many issues the Church is way left of center, including immigration, capital punishment, social justice both home and abroad, the role of government and the use of military force in foreign affairs. In its questioning of capitalism, the Catholic Church is so radical that there is no equivalent major non-religious voice. Gingrich may try to run away from all this, but Catholic Church teaching is pretty seamless. Having run as a Catholic, Gingrich may be stuck with it, which could change the way Americans think about religion and politics.

Title: Religion at the End of Life

Date: 2011-03-03T05:27:00.001-05:00

2/3/2011—I'm visiting my Dad at an assisted living facility in Florida this week. He is 93 years old and in reasonably good health and spirits. Everything about him is slowing down and getting weak, but he is in a pretty good institution, there is enough money for comfort, family is close by. In other words, he is living out life about as well as one can. Yet life for him is bleak and empty. Life for the other residents around him is not much better. They are in many ways more vigorous, but their focus has tended to become narrow and petty. There is no vision of hope either in the leadership of the institution or in the consciousness of those they serve. I have written about the emptiness of life in a secular culture, but I was writing about the challenge of secularism itself. Secularists lack the comfort of religion. But, although I have not raised the question of God or religion with residents here, judging by their ages, there is not likely to be much of an atheist cohort. In other words, these residents are life-long religious believers. Yet religion is now absent from their lives in any significant way despite the availability of religious services of various kinds. My father is a good example of this tendency. He has always lived a religious life, at times strenuously so. Prayer now would in fact be one important way of life open to him. He is increasingly turned inward. Union of some kind with transcendent reality would enrich his existence. But it does not occur to him at all. Efforts to suggest this path are shrugged off. What lessons are available here? Perhaps extreme old age robs us of all meaningful life before we die. That is not a cheery thought but maybe it is the truth. Perhaps the fault is institutional in the sense that the leadership of the facility does not genuinely present religious alternatives. That leadership is of course younger and they definitely lack any religious grounding. Maybe Dad would have been better off in a religiously affiliated program. Perhaps the lesson is geographical. People in Florida have often cut themselves off from community ties earlier in life. Dad's religious life was centered in Connecticut. It did not really survive the move to Florida. Remaining as close as we can to real life may be a better way to live than moving somewhere. I know that the following lesson is true. When religious believers tout the advantages of religion, they fail to mention that these advantages are only available to genuinely committed believers who have embedded themselves deeply in their religious traditions. They are true believers, not in the dogmatic sense but in the sense that they have a strong sense of what our religions mean to them. This is just as necessary in conservative or liberal religion. They must be educated in the faith. Now ask yourself how many such believers you know.

Title: Can Philosophy Serve as an Alternative to Religion?

Date: 2011-03-06T05:47:00.001-05:00

3/6/2011—In China, the major religions, Confucianism, Taoism and Buddhism, were known as the “Three Teachings”. Religion was thought of as a source of wisdom about life and the universe and different traditions might have different messages to teach us at different times in our lives. It seems to me that “faith” meant something different in this society than it does for Americans and the West today. I don’t think most Chinese thought that one of the Three Teachings was true and the other two false. This Chinese approach to religion is more philosophical than ours. When I speak of philosophy, I am not referring to any narrow definition of “reason” but to the love of wisdom (philo—loving and Sophia, wisdom). Philosophy in this sense is not the enemy of religion. Proverbs in the Old Testament, for example, is often referred to as “Wisdom Literature”. The question is whether philosophy can serve as an alternative to religion for those of us who are not dogmatically religious for one reason or another. This is a time of ferment in secularism, in America certainly and I suspect more widely. This week I received an email from a new group called the Institute for Science and Human Values that “wants to address in particular how secularism ‘operates’ in ordinary life and decision making, ranging from how individuals who self-identify as secular make ethical choices, weigh political options, or choose to become involved or dissociate from activist movements. The working assumption of the forum is that secularism describes a way of looking at society that is not explained by more targeted idioms (like Atheism) or more general usages (like Humanism). The Forum also hopes to renew interest in secularism as a topic for public discourse across a broad range of issues, ranging from human rights to moral wrongs.” Well, I’m all for this of course, but it seems operational rather than thoughtful. In contrast, I just saw the first lecture from “Skeptics and Believers”, a Teaching Company Course, by Grinnell College Professor Tyler Roberts. He ends the first lecture, quoting the French philosopher Michel Foucault, suggesting that philosophy is a way of understanding the world that teaches a moral discipline (my term)—the moral discipline of throwing into question our usual ways of thinking. Philosophy, rather than emphasizing a critique of religion as opposed to reason, would ask us to think the world religiously to see what we can learn. Philosophy is thus a radical and disciplined openness. Roberts calls it a spiritual exercise. Maybe philosophy is the future of secularism.

Title: Islam Just Like Other Religions—For Good and Ill

Date: 2011-03-10T04:59:00.000-05:00

3/10/2011—In light of the hearings today by Rep. Peter King's House Homeland Security Committee concerning "The Extent of Radicalization in the American Muslim Community and That Community's Response" comes new evidence that Islam is just like other religions, this time just as uncomfortable with science. Here is the story, reported in the Guardian online that Imam Usama Hasan has been intimidated and threatened into retracting his statements that Islam must accept evolutionary theory. Hasan had pointed out that Muslim scholars in earlier periods, "including the 10th-century Persian philosopher Ibn Miskawayh who had supported a very similar theory to that of Darwin." (quoting the article). But religion is not what it used to be apparently. The problem is very simple. The Qur'an, like the Bible, teaches about Adam as the first human being. If Adam, that is the first human, had parents, that is descended from earlier hominids, these accounts are not literally true. If these accounts are not literally true, what in the Bible or the Qur'an is literally true? Evolution really is a threat to revealed religion. That is why many Americans reject it. I'm not sure that believers who accept evolution have really come to terms with its implications. Now for the good part. Islam is like other religions in another way. Muslims oppose violence and criminal activity but they don't want to be spies on their own community for the FBI. When they hear about real threats they contact the authorities. Otherwise, they tell the FBI to take a hike. Good for them. I hope that is what some Muslims tell Peter King.

Title: The Pope's New Book

Date: 2011-03-12T15:37:00.002-05:00

3/12/2011—Just in time for lent, the Catholic Church has released Pope Benedict's new book, *Jesus of Nazareth, Holy Week; From the Entrance into Jerusalem to the Resurrection*. This volume is part two to Benedict's earlier treatment of Jesus' life and teaching in general in 2008. This book is a really shocking introduction to Christian life and belief for those who don't know Christianity, or who think they know it but don't. The shock is how vivid and wonderful Benedict's description of Christian life is. Even I am tempted to become a Catholic. Here is the flavor of the book from pages 82-83. The context is Jesus so-called High Priestly Prayer from the Gospel of John, chapter 17. Benedict is describing the "eternal life" that Jesus gives. "Eternal life' is not—as the modern reader might immediately assume—life after death, in contrast to this present life, which is transient and not eternal. 'Eternal life' is life itself, real life, which can also be lived in the present age and is no longer challenged by physical death. This is the point: to seize 'life' here and now, real life that can no longer be destroyed by anything or anyone. [A] distinguishing feature of the disciple of Jesus is the fact that he 'lives': beyond the mere fact of existing, he has found and embraced the real life that everyone is seeking. On the basis of such texts, the early Christians called themselves simply 'the living' (*hoi zontes*). They had found what all are seeking—life itself, full and, hence, indestructible life." Now, aside from how one can live this way, can we not all agree with Benedict that this in fact is our goal—all of us? And if this is our goal, how is it that we needed Benedict and his reading of the Gospel to remind us? There must be some truth to it.

Title: The Killings in Itamar

Date: 2011-03-17T16:11:00.000-04:00

3/17/2011—I just saw a picture of the murder scene of the Fogel family on the front page of The Jewish Chronicle's March 17 issue. The killings occurred on March 4 in the Jewish settlement of Itamar. I don't remember hearing about the murders of 5 members of the family in cold blood, the parents and three children, ages 11, 4 and a baby of 3 months. According to the Chronicle, responsibility for the killings was claimed by the Al-Aksa Martyrs Brigades of Imad Mughniyeh. It is difficult to imagine someone thinking there is some kind of justification for the murder of children. It is just not the kind of thinking that can make sense. I know that a lot of killing goes on between Israel and the Palestinians. Rockets are launched into Israel, although apparently not many recently. Military operations by the Israeli army kill civilians, including children. But normal people, even in the midst of violent conflict, don't butcher babies. Naturally settlers were quick to cash in on the murders, using them to call for more construction in the occupied territories. And the government was quick to respond. Palestinian officials both in the West Bank and Gaza condemned the killings but wanted to draw attention to the larger context of Israeli occupation. It is very depressing and disheartening. Just don't blame Islam. I don't care where you look in the Qur'an, you won't find a justification for the murder of children.

Title: The New Secularism

Date: 2011-03-20T05:51:00.003-04:00

3/20/2011—I hope Garry Wills never reviews something I have written. He reviewed *All Things Shining: Reading the Western Classics to Find Meaning in a Secular Age* by Hubert Dreyfus and Sean Dorrance Kelly in the New York Review of Books in the April 7, 2011 edition. The review is entitled, ominously, [Superficial & Sublime?](#) Here is the opening:

“This book, which was featured on the front page of The New York Times Book Review, comes recommended by some famous Big Thinkers. It is written by well-regarded professors (one of them the chairman of the Harvard philosophy department). This made me rub my eyes with astonishment as I read the book itself, so inept and shallow is it.”

According to Wills, the authors, professors of Philosophy at Berkeley and Harvard respectively, set out to solve the problem of modern secular culture, which is primarily that we lack a shared frame of reference and so must forge our own view of the universe. This is beyond the capacity of most people and is also beset by creeping nihilism, which teaches that “there is no reason to prefer any answer to any other.” (quote from the book).

In order to solve this problem, the authors endorse “what they think is a wise and accepting superficiality” that does not try to get to the bottom of things but seeks a glimpse of the sacred from the surface of what they call “whoosh” moments—moments of what Karen Armstrong calls (and not only she) *ekstasis*, “a ‘stepping outside’ the norm”. (from *The Case for God*)(the reference to Armstrong is me, not Wills).

Dreyfus and Kelly think one can get this experience even from sporting events: “There is no essential difference, really, in how it feels to rise as one in joy to sing the praises of the Lord, or to rise as one in joy to sing the praises of the Hail Mary pass, the Immaculate Reception, the Angels, the Saints, the Friars, or the Demon Deacons.”

Clearly Wills thinks everything about this set up is inept and shallow, but mostly he is upset by the loose and incompetent interpretations of the Western classic in the book. He is critical of the authors’ suggestion that Augustine invented interiority, for example.

But as to sports and *ekstasis*, which also bothers Wills, Karen Armstrong, who Wills would admit is not inept and shallow, makes a point similar to that of the authors: “Today people who no longer find [*ekstasis*] in a religious setting resort to other outlets: music, dance, art, sex, drugs, or sports. We make a point of seeking out these experiences that touch us deeply within and lift us momentarily beyond ourselves. At such times, we feel that we inhabit our humanity more fully than usual and experience an enhancement of being.” (page 10 of *The Case for God*).

Of course, hallowed secularism is also an attempt to find a deeper way of life outside the religious traditions. But my point in this post is that apparently it is now understood that secularism must find sources of depth. This is a new insight for secularism—wouldn’t Christopher Hitchens make fun of this notion?—and justifies referring to a “New Secularism”.

Title: The Challenge to Obamacare is Secular—As is the Defense of Abortion

Date: 2011-03-24T05:28:00.002-04:00

3/24/2011—In her book, *The Case for God*, Karen Armstrong describes the disregard of self as one of the essential teachings of all religions. The most obvious examples are Buddhism and the description of Jesus as emptying himself—kenosis—to become a servant to all.

In terms of the disregard of self, capitalism may be regarded as the quintessential anti-religious stance. Capitalism teaches the inherent self-interest of human nature. According to capitalism, this trait cannot be weaned out of us because it is essential to our humanity. The economy is based on the pursuit of self-interest, referred to as happiness in the Declaration of Independence but pretty clearly meaning “our individual happiness” in fact.

So committed is capitalism to self-interest that defenders of the system assume that all social systems operate on the principle of self-interest. Thus one of capitalism’s most influential thinkers, Judge Richard Posner, writes that the manipulation of legislation to favor interest groups at the expense of the common good is too inherent in politics to be considered unconstitutional: “[I]t would be odd, indeed, to condemn as unconstitutional the most characteristic product of a democratic (perhaps of any) political system.”

The challenge to the constitutionality of Obamacare, the individual mandate to buy health insurance, is anti-religious in the same sense of being premised on self-regard. In the worldview of the challengers, the uninsured person is sitting alone in his room, choosing not to participate in the healthcare market. Government then unconstitutionally forces him to buy a product he does not want.

When it is pointed out that such a person might lack the resources to pay for a health emergency, the challengers say that the right not to participate includes the right to go without healthcare, including the right to die on the highway without treatment.

At first I could not take these arguments seriously. Surely the challengers to Obamacare know that all citizens have a right to emergency care in our system. This uninsured person will be taken to the hospital for care after a heart attack in his room or an accident on the highway and society will pay his costs if he does not have healthcare. So he already participates in the healthcare market. He just does not necessarily pay for it.

I have come to understand, however, that the safety net of healthcare is for the challengers part of the affront of Obamacare. The individual is seen as having the right to go without care if he wishes. Thus this individual is seen as self-sufficient and without social relationships and obligations. The regard of the government for the others in his life—spouse, children—and its regard to the public nature of his decision—the effect on society in general of people dying in the streets, is just more government imposition on individual rights.

This whole worldview is self-centered in the extreme and one wonders how conservative Christians who are supporting this challenge can fail to see it.

The basic structure of the healthcare challenge is the same as the challenge to laws restricting the right to abortion. It might seem obvious that in the case of pregnancy, there are rights and interests at stake beyond those of the pregnant woman alone—those of the unborn child, those of the father, those of other family members and those of society itself.

But to have any regard for those social interests as opposed to the individual right of the woman herself is seen as an affront to her selfhood. Thus abortion, like going without healthcare, is an individual right with which government may not interfere without oppressive injustice.

Perhaps the underlying coalitions in these contexts have simply failed to see their commonalities yet. (Of course, one could add, if this is secularism, then what is hallowed secularism?)

Title: 60 and the Cycle of Life

Date: 2011-03-27T06:35:00.004-04:00

3/27/2011—A friend of mine told me it was not easy making your way in the world by yourself when you are “almost sixty”. His comment caused me to think about the rhythm of the life of a human being, especially since I am almost 60 as well.

A human life seems naturally to divide, if one is healthy, into four stages: youth (to 20)/adulthood (20-40)/prime (40-60)/ending (60-80). (With apologies because I vaguely remember that a number of people have recently discussed such divisions in books). There are other important year markings—30 seems a big one in our culture—but this four stage seems to me to be the more basic cycle.

In terms of identity, youth is a plastic time in which my identity—my genuine self—begins to coalesce. It is in adulthood that I work out, or life does it to me, who I am and what my life is about. I have notions about this earlier, but in the years 20-40, I decide, or again life decides for me, the basic issues of sexuality, family and work. I don't think these basic decisions or outcomes change much after 40.

Prime seems to me potentially to be the easiest stage of life, though of course divorce in our culture sometimes unsettles the pattern (although not necessarily: at 48, my wife decided to divorce me and in hindsight this did not change the basic rhythm of my life—children and work—in my case that is probably the result of meeting a wonderful woman shortly thereafter).

The ending stage seems to demand change, however. Change is demanded physically, psychologically and spiritually. I am not thinking of imminent death or even precipitous physical decline. However, as energy begins to wane, those aspects of life that are not rewarding become burdensome. For example, I could put up with a deadening job before, but at sixty, that becomes much harder to do. Such a job also begins to seem pointless. At sixty, a healthy person wants to put away anything that is not significant, both because time is getting short and because figuring out the purpose of life becomes a higher demand.

My colleague and teacher Robert Taylor has always preached the wisdom of preparing for death when one is young. (Socrates said that philosophy is preparation for death). As I approach sixty, the need to do this is apparent, though it can be too late. Sixty casts a harsh light. If one has lived a superficial life, one can feel a vast emptiness that youth and vigor hid before. If one has harmed others, the weight of guilt (or, if one is still insensitive to others, the consequences of broken relationships) begins to wear you down. If one has lived for others without ever really choosing to do so, the loss of self can manifest in a feeling of injustice over their ingratitude.

It is rare that a person can say at sixty, I lived as well as I could and I am satisfied overall with my choices and actions. I am ready for death, but not in any hurry. (And of course, there will be those who feel able to say this because their egomania still shields them from the truth about themselves. Maybe they will be lucky enough to die with their illusions intact. But woe to them if they wake up very late in life—that is what hell is).

Title: Islam, Judaism and the Murders at Itamar

Date: 2011-03-30T04:14:00.004-04:00

3/30/2011--The online journal e-International Relations has published my op-ed on the killings at Itamar. The piece can be accessed [here](#).

Title: The Great Separation

Date: 2011-04-02T06:30:00.002-04:00

4/2/2011—Last night, my wife Patt and I listened to lectures 3 and 4 in The Teaching Company's Skeptics and Believers: Religious Debate in the Western Intellectual Tradition (listened, that is, after the dog chewed up the lecture disc we were going to watch). The series is taught by Grinnell Professor Tyler Roberts and it is quite good. Roberts ended the lecture by referring twice to "the great separation" from Mark Lilla's *The Stillborn God: Religion, Politics and the Modern West* (2007). I think this is a mistake. Lilla blames the intertwining of religion and politics for the holocaust (what religion was Hitler again?). Lilla praises Locke and Hume for suggesting that religion and politics should be separate enterprises and criticizes naïve liberal theology for thinking that religion could contribute to politics without running the risk of fanaticism. I have written elsewhere of the truncated politics that results from Lilla. But his real error is not being pessimistic enough. People don't need religion to hate and kill each other. His mild politics makes the same mistake he attributes to mild religion—he imagines this is a way that can stave off murderous hatred. No mechanism can accomplish that—only the hard work of daily healthy political work. But Roberts was making a historical mistake in his use of Lilla. I often hear the assumption that the Establishment Clause enacted the separate realms theory. Government is one thing and religion is another. The separation that resulted from the end of the wars of religion in Europe in 1648 did begin to separate political life from the institutional church, and did begin to separate science from religious oversight, but it did not, and was not thought to, end God's concern with the justice practiced in human society. Just ask yourself this—did Thomas Jefferson believe that God would punish America for the sin of slavery? If so, there cannot be a separation between politics and God. That is the view of the founding generation, however we must adapt that view to our secular society. Here is what Jefferson said about slavery in his *Notes on the State of Virginia* (1781), and though he was notoriously inconsistent, I don't think he wavered here—"Indeed, I tremble for my country when I reflect that God is just; that His justice cannot sleep forever."

Title: The Legal Background of Burning the Qur'an

Date: 2011-04-03T06:41:00.001-04:00

4/3/2011—It will come as a surprise, apparently, in the Muslim world that Terry Jones cannot be arrested and punished for burning the Qur'an. It will come as a surprise to Americans, apparently, that the reasons for this are pretty uniquely American. Jones' action is protected here by the first amendment--freedom of speech, which has been held to include certain forms of symbolic action. The last successful blasphemy prosecution in the United States, according to Wikipedia, was in 1928. It was not until 1952 that the United States Supreme Court held a blasphemy law to be unconstitutional, but this was undoubtedly because prosecutors were not attempting such prosecutions. In most of the world, however, intentional incitement to racial or religious hatred is a crime. This does not just include the Muslim world, but most of the nations of Europe. The historical reason for this limit to freedom of speech is the experience of the Nazi atrocities. You apparently can have pretty free societies and still punish people who intentionally defame the religion of other people. Even in the United States, attempts to punish really hateful speech continue. In 1983, Hustler magazine published a very distasteful parody of Jerry Falwell, founder of the Moral Majority and a well-known conservative religious figure, in which Falwell was "quoted" as stating that his "first time" was with his mother in an outhouse. Hustler magazine was found civilly liable for intentional infliction of emotional distress and this verdict was upheld by the Fourth Circuit Court of Appeals. The Supreme Court reversed unanimously in a decision in 1988. The attempt to hold Westboro Baptist Church liable for its distasteful funeral protests followed a similar pattern just this year. But you can certainly lose your government funding for hateful speech. In 1989, the National Endowment for the Arts supported two artists that led Congress to deduct money from the NEA budget and to amend its funding provisions to require that "general standards of decency" be taken into account by the agency. The two artists and their work were Robert Mapplethorpe's homoerotic photos and Andres Serrano's famous photograph showing a crucifix immersed in urine. The Supreme Court upheld the amendment in a fractured decision in 1998. And we do not allow the teaching of racial hatred in schools supported, even indirectly, with public money. The Cleveland voucher program upheld by the Supreme Court in 2002 provided that no school could participate in the program if it taught "hatred of any person or group on the basis of race, ethnicity, national origin, or religion." So, yes, Jones is protected by freedom of speech. But it is not as if many Americans have not attempted to punish similar actions in our past and until recently have succeeded.

Mixing Church and State

4/9/2011—Those who still think you can separate church and state in a fundamental way—that is, in anything more than an institutional way in which government does not pay clergy—should look at the essay by Ronald Dworkin in the *New York Review of Books* in the February 10, 2011 issue ([What Is a Good Life?](#)) based on his new book, *Justice for Hedgehogs*, and on the review of that book in the April 28, 2011 issue ([Birth of a Classic](#)) by A.C. Grayling.

Now I don't think very much of the book from what I can tell without reading it. But that is because of a problem I have with Dworkin. He always seems to me to define his way to his conclusions rather than thinking his way there. Thus, although he is too smart for me ever to spot it, I have the feeling that rabbits are being stuffed in hats. When did Dworkin ever come to a conclusion he did not already hold?

Nevertheless, both the essay and the review show that the fundamental human questions don't change that much whether we are religious or not. Here is Dworkin, a secularist, on the responsibility to live an ethical life, which for Dworkin is the ground of all morality:

“You might ask: responsibility to whom? It is misleading to answer: responsibility to ourselves. People to whom responsibilities are owed can normally release those who are responsible, but we cannot release ourselves from our responsibility to live well. We must instead acknowledge an idea that I believe we almost all accept in the way we live but that is rarely explicitly formulated or acknowledged. We are charged to live well by the bare fact of our existence as self-conscious creatures with lives to lead. We are charged in the way we are charged by the value of anything entrusted to our care. It is important that we live well; not important just to us or to anyone else, but just important.”

Now if you say it is important to live rightly because the universe has created self-consciousness in us and, as far as we know yet, nowhere else, how is your answer much different from saying God created us in His image? Isn't Dworkin right in saying the conclusion is the point?

Now listen to this description by Grayling on Dworkin and the objectivity of values—the very point at issue in *Church, State, and the Crisis in American Secularism*, which as you all know will be published next month by Indiana Press:

“Dworkin is an ‘objectivist’ about value: he thinks there really are better and worse ways for people to live, better and worse political institutions, better and worse theories of the value of art and the nature of democracy. In this he goes against the majority trend of thinking about value in contemporary debate. ‘We cannot defend a theory of justice,’ he writes, ‘without also defending, as part of the same enterprise, a theory of moral objectivity. It is irresponsible to try to do without such a theory.’”

But, as C.S. Lewis says, objective values is the essence of all religion. It is based on the claim that we are a certain way and the universe is a certain way and therefore certain ways to live are objectively right and others objectively wrong. (Dworkin denies this mix of fact and value by the way but I'm not sure that would matter to Lewis. These are in-house debates and that house contains religion and secular philosophy.)

Title: Islam, Judaism, and the Murder of Children

Date: 2011-04-10T05:47:00.001-04:00

4/10/2011--For those who missed the original essay, the Pittsburgh Post-Gazette is today reprinting the piece here.

Title: John Rawls' Juvenile Conception of God

Date: 2011-04-13T21:03:00.004-04:00

4/13/2011—In December, 2010, Princeton philosophy professor Kwame Anthony Appiah published a review of a then-recent book containing John Rawls' senior thesis from Princeton in 1942 along with an essay entitled "On My Religion" written by Rawls when he was seventy-six. (Rawls died in 2002 at age 81). (Review here) Rawls was an American moral and political philosopher—quite possibly the most influential American philosopher of the postwar period. His two major works—*A Theory of Justice* (1971) and *Political Liberalism* (1993)—were in the social contract tradition and were critical of the place of religion in the public square. So it was a little surprising to read that Rawls' thesis was about sin and faith and clearly indicated a Christian orientation at the time that Rawls obviously lost later in life. The essay in the book explains that loss. Here is how Appiah puts the matter: "[Rawls] reports three moments in his loss of faith, all of them connected with his experience during the war. In the first, he was appalled by a Lutheran chaplain who preached that God was aiming 'bullets at the Japanese' while protecting Americans from Japanese fire. Private Rawls courageously upbraided the padre, a first lieutenant, for these 'falsehoods about divine providence.' The second was an episode in which, as a result of an arbitrary contingency, a friend ('a splendid man') with whom he had shared a tent was chosen over him for a mission that proved fatal. And the third was hearing about the Holocaust. 'How could I pray and ask God to help me, or my family, or my country, or any other cherished thing I cared about, when God would not save millions of Jews from Hitler?' And he went on: To interpret history as expressing God's will, God's will must accord with the most basic ideas of justice as we know them. For what else can the most basic justice be? Thus, I soon came to reject the idea of the supremacy of the divine will as...hideous and evil." I don't see how a very intelligent young man like Rawls could have failed to notice that history is filled with violence that a loving God presumably could have prevented. The scale and barbarity of the Holocaust were perhaps unique but not the failure of God to intervene. For that matter, what kind of Christianity asks God to intervene "to help me, or my family" without adding, as Jesus did, thy will be done. The Bible itself raises the question that so affected Rawls in that the slaves in Egypt waited four hundred years without rescue before Moses was sent by God. What about those innocent lost lives? For God, Rawls seems to have had in mind a supernatural being of unlimited powers and no plan for salvation. The problem of evil is a real problem if one has that sort of conception of God. But that is not the only possible conception of God.

Title: The Importance of Objective Morality

Date: 2011-04-16T06:55:00.001-04:00

4/16/2011—On April 7, at Notre Dame, Sam Harris debated the philosopher of religion William Lane on the topic of whether God is the source of morality. (report here from Notre Dame magazine). For my purposes we learn two things from this debate, regardless of the answer to the question. The first is that some secularists think it very important that there be something objective in morality, that not everything we call right and wrong be merely a matter of opinion, time and culture. Second, we learn that religious believers do strongly associate God with the concept of objective morality. Since these two propositions are at the heart of Church, State, and the Crisis in American Secularism, I believe I won this debate. The idea that “one Nation under God” can actually have the public meaning of one Nation subject to moral norms—and conscious of that fact—is not a dream or a fiction. It is a message embedded in that formulation. So, if it is an important message, why not allow government sometimes at least to put it that way? [I must add that I think of “God” as a symbol of our belief that justice and other values are real, that is objective in some sense. If we think of God as a being who “made” objective morality and guarantees it, as William Lane seems to suggest, then we have the odd problem of whether God is himself subject to the moral norms that he created. Or, as Abraham asks God in Genesis, shall not the Judge of all the world do right? (or better in the Hebrew, shall not the Justice of all the world do justice?)]

Title: Church, State, and the Crisis in American Secularism Video Comes to YouTube

Date: 2011-04-18T19:10:00.004-04:00

4/18/2011 Check out the video.

4/22/2011—This is actually a pretty funny story. I heard Karen Lugo being interviewed, I believe on Wednesday on a Christian radio station in southern Florida. Karen Lugo is Orange County California Lawyer Chapter President for the Federalist Society. She also serves as the Assistant Director of the Claremont Institute Center for Constitutional Jurisprudence, and was recently appointed to the California Civil Rights Commission Advisory Committee. So she is both smart and very conservative. Lugo was discussing two matters. The first had something to do with alleged hate speech but I did not get the story straight. Lugo had been involved in peaceful protest against what she has elsewhere referred to as “two radically anti-American Muslim imams are coming to your town”. The Council on Islamic-American Relations then alleged that this constituted hate speech. But the interviewer also wanted to know about what was called the infiltration of Shari’ah into the American legal system, a subject on which Lugo is an expert. Lugo was asked about a Florida case in which the judge supposedly ruled that Shari’ah applies and this was felt by the interviewer to be a threat to our American way of life. Lugo, obviously honest lawyer first, corrected the interviewer by pointing out that in the Florida case, the judge had correctly applied a choice of law clause in an agreement between two parties who had agreed that Shari’ah would govern any disputes over their agreement. She pointed out that the right to so specify was one of the freedoms that Americans enjoy. But Lugo still expressed concern about this and other applications of “foreign” law in the American system. She spoke of the need to maintain a separation between religion and government. Yes I do find this funny. Any and all expressions of Christianity in American public life are accepted by conservatives with no reference or worry about the Establishment Clause. But the possible appearance of Shari’ah suddenly sparks concerns worthy of Americans United for Separation of Church and State. It also occurs to me that bans on the use of foreign law that Lugo said a number of states are considering, would also prevent Orthodox Jews and others from specifying religious law as the legal norm with which to interpret their agreements. Surely this would lessen America’s free exercise of religion.

Title: Why the Resurrection Changes Everything

Date: 2011-04-24T06:52:00.003-04:00

4/24/2011—Happy Easter. The tomb is empty. He is risen. We have a phrase in America. We say that some new thing “changes everything”. But it is never true. No event changes everything because the human condition remains fundamentally the same. But if the words used to describe the resurrection were accurate, they really would change everything. Pope Benedict’s wonderful book, the second volume of *Jesus of Nazareth*, subtitled, *From the Entrance into Jerusalem to the Resurrection*, makes it clear that for the nascent Church, the resurrection was not an apparition, a dream, or a symbol. People met the risen Christ. It really was Jesus. But Jesus was not a resurrected corpse like Lazarus, destined finally to die a biological death. Jesus was living a new existence, the new existence promised to all of us when Christ, who is with us always, “returns”. Since Christians do not understand the resurrection, in part because we cannot understand what this new existence is like, Benedict calls it—with hesitation—an evolutionary leap (he also calls it, with more confidence, an “ontological leap” but this will not mean as much to people perhaps). He means that resurrection life is like our current historical life only to an extent. We will become like a new species. This is why Jesus can, on the one hand, eat a piece of fish and, on the other, appear and disappear in a fashion that causes his friends not to recognize him. Benedict spends much time on the attitude of the Christian to the future because, since Jesus ascends to the right hand of the father, one could think of Jesus as now in heaven and one day returning. But Benedict says that all that really matters to the Christian is the present. Jesus is present with us now. He is not in some other place. He is with God. But “God is not in one space alongside other spaces. God is God—he is the premise and the ground of all the space there is, but he himself is not part of it. ... ‘Sitting at God’s right hand’ means participating in this divine domination over space.” (283). So we see that for the Christian, the reign of space/time is at an end. Benedict presents a beautiful message. I wish I could believe it. But don’t imagine that anything in any way less than this concrete and realistic portrayal of power is genuine Christianity.

Title: Courageous Senator Bob Casey

Date: 2011-04-29T09:13:00.001-04:00

4/29/2011—If we want to have a healthy political life, we should have more Bob Caseys. But because we don't have a healthy political life, we won't. I was remiss in not reporting two weeks ago on Daniel Malloy's story in the Post-Gazette concerning Pennsylvania's senior Senator. During the budget fight, Casey, who is pro-life, voted against denying funds to Planned Parenthood. Here is what the story reported: "Mr. Casey is anti-abortion but favors contraception and preventative health, often couching his political stances in the language of what's practical -- will this reduce the number of abortions? He determined yes in the case of Planned Parenthood. 'One of the best ways to reduce abortion is to have family planning available, and an organization like Planned Parenthood provides a whole range of services,' he said this week." Now, maybe contraception does not actually reduce the number of abortions. There is some anecdotal evidence that the availability of contraception increases the amount of teen sex and thus increases abortions, since teens often fail to use contraception effectively. Nevertheless, this sort of vote is a judgment call. Casey is no ideologue. Naturally, pro-life ideologues, for whom a moderate like Casey is really a threat because compromise is bad for interest groups, immediately reacted to this vote: "Barely an hour had passed since Sen. Bob Casey voted against denying federal funds to Planned Parenthood on Thursday when the Family Research Council announced its intention to launch an advertising campaign against his re-election." These groups will spend more to defeat a pro-life moderate than a pro-choice radical. You see the rest of the unhealthiness of our political life by the view of pro-choice forces. They won't support Casey either: "Mr. Casey's not exactly getting counter-fire from Planned Parenthood, either, as the organization disagrees with his anti-abortion stance. Rebecca Cavanaugh, spokeswoman for Planned Parenthood of Western Pennsylvania, said the organization isn't going to endorse him but would be happy to inform supporters of Mr. Casey's 'pro-prevention' record." In other words, moderates like Casey don't stand much of a chance. That's why I am sending a check to the reelection campaign of Bob Casey. He's going to need it.

Title: Religion, Guns and Racism

Date: 2011-05-01T15:24:00.003-04:00

5/1/2011—In August 2009, I blogged about the contentious healthcare debates and demonstrations going on against Obamacare. I used the quote that Obama uttered after the Pennsylvania Primary of 2008: "These protestors, especially in Pennsylvania, are the same people of whom President Obama said, after the Pennsylvania Primary, 'And it's not surprising then they get bitter, they cling to guns or religion or antipathy to people who aren't like them or anti-immigrant sentiment or anti-trade sentiment as a way to explain their frustrations.' The people in these demonstrations never like or trusted President Obama. And if he thinks he understands them, as his famous quote suggests, he has not communicated to them respect and empathy." In this morning's Post-Gazette, reporter James O'Toole called that quote "the enduring rhetorical gift that Mr. Obama the candidate gave his critics three years ago". Former Arkansas Gov. Mike Huckabee used it Saturday night in an attack on President Obama: "'I stand here tonight as a gun clinger and a God clinger, unapologetically,' Mr. Huckabee said to cheers and laughter. 'My father also was a gun clinger and his father was a gun clinger, and I don't know if you noted this, but the father of our country was something of a gun clinger himself.'" Those of us who are not gun owners miss this connection of guns and religion. And racism I guess. Ironically, candidate Obama was probably right in his analysis, at least to some extent. But by distancing himself from the people he was describing, he reinforced the forces he was implicitly opposing. He meant to be understanding and empathetic but came off in precisely the opposite way. The story of the 2012 campaign will be the degree to which President Obama can bridge the gap that candidate Obama recognized but enlarged.

Title: The Military Killed the Man Responsible for the Sneak Attack on America

Date: 2011-05-03T16:52:00.001-04:00

5/3/2011—But it wasn't Osama Bin Laden. It was April 18, 1943 and the target was Japanese Admiral Isoroku Yamamoto, the architect of the attack on Pearl Harbor. This was a specific mission to kill Yamamoto, based on code breaking interceptions that gave detailed information about Yamamoto's planned inspection of Japanese forces on the Solomon islands. Sixteen P-38 fighters flew the elaborately planned 1000 mile mission. Remarkably, only one plane and pilot were lost. Yamamoto and his staff were flying in two bombers accompanied by six fighter escorts. Both bombers were destroyed. The fighters arrived at the planned rendezvous point at almost exactly the moment Yamamoto's group arrived. Any delays on either side would have frustrated the mission. It was an amazing achievement for the military authorized directly by the White House. The point of this parallel is that there is nothing intrinsically wrong with killing an individual in war. We planned to kill Yamamoto in revenge for the attack on Pearl Harbor and we planned to kill Bin Laden for a similar reason. Indeed, there was less justification for our feelings against Yamamoto, since the Pearl Harbor attack was not really unforeseeable and was entirely a military operation. Liberals like myself often emphasize the need for the rule of law in dealing with terrorists. This is certainly the preferred course in general. But Bin Laden's actions against the United States were essentially continuing acts of warfare. There is not much difference between killing him and destroying an airfield used to bomb American territory.

Title: Torture Works

Date: 2011-05-08T04:20:00.004-04:00

5/8/2011--For the last few days, I have been preparing book publicity for Church, State, and the Crisis in American Secularism, which will be out in a few weeks. One aspect of that publicity is speaking about the Establishment Clause and the separation of church and state. Anyone interested in the more technical aspects of Establishment Clause jurisprudence is welcome to come to the Constitutional Law Colloquium at Loyola Law School, Chicago, which will be held at the Philip H. Corboy Law Center, 25 East Pearson Street, Chicago, IL. I will be speaking either on October 21st or 22nd. Details to follow. The title of the talk is Standing on God/Pleading With God: The Implications of the Turn to Standing in Establishment Clause Jurisprudence. I have also been hard at work responding to the argument of John Yoo, the author of the 2002 torture memo, that the death of Osama bin Laden shows that torture works. He has been making this argument everywhere in the last week, including this piece in the Wall Street Journal. The death of bin Laden does show that in a way and I'll be responding tomorrow on Huffington Post.

5/11/2011—People are still telling religious believers what they are allowed to say in the public square. I read in Yale Law Reports about a debate between Bruce Ackerman and Stephen Carter concerning what types of reasons can be legitimately referenced in public deliberation. The debate was entitled “Rational, Reasonable, and Religious?” Ackerman argued that only shared commitments, such as a commitment to liberal justice, should be considered legitimate in public deliberations. Religious identity is a distinctive personal affiliation and appeals to it should not be a part of public debate. If such non-shared commitments count as public reasons, we will be talking past each other, says Ackerman. Ackerman gets these ideas from John Rawls, who I had thought more or less retreated from them later in his career. There is a lot wrong with Ackerman’s account of public reason. For one thing, the constitutional system asserts that all reasons count. That is why the first amendment free speech clause protects religious reasons in public debate. That is also why we don’t vote on giving Ackerman the power to limit political language. Second, nonbelievers understand religious believers. They are just unconvinced. When believers say that God considers gay marriage to be sinful, the statement is not much different from my position that gay love is beautiful and healthy and therefore that gay marriage should be lawful. Opponents of my position just disagree in a fundamental way. Ackerman would say that in principle I could convince my opponents that gay marriage is good. But in principle, the religious believer could convince the secularist in the same way. Neither is likely, but neither is impossible. Finally, it is remarkable that Ackerman never considers the possibility that religious claims are true. If the God of history really does consider gay marriage to be sinful and might punish America for permitting it, then even Ackerman would have to agree that obeying God is a public rather than a private issue. Ackerman does not even realize that his political position depends on the assumption that the believer’s claim about history is false. Ackerman falsely believes that his position is the value neutral one.

Title: More on Torture

Date: 2011-05-15T05:32:00.010-04:00

5/15/2011--The Philadelphia Inquirer is running an op-ed by me on the morality of torture today. I believe that the paper is doing so opposite previously published <http://www.blogger.com/img/blank.gif> comments by John Yoo. However, the content has not yet been released to the Internet but only to subscribers. So I will add the address here later. It is located here.

5/11/2011—People are still telling religious believers what they are allowed to say in the public square. I read in Yale Law Reports about a debate between Bruce Ackerman and Stephen Carter about what type of reasons can be legitimately referenced in public deliberation. The debate was entitled “Rational, Reasonable, and Religious?” Ackerman argued that only shared commitments, such as a commitment to liberal justice, should be considered legitimate in public deliberations. Religious identity is a distinctive personal affiliation and appeals to it should not be a part of public debate. If such non-shared commitments count as public reasons, we will be talking past each other, says Ackerman. Ackerman gets these ideas from John Rawls, who I had thought more or less retreated from them later in his career. There is a lot wrong with Ackerman’s account of public reason. For one thing, the constitutional system asserts that all reasons count. That is why the first amendment free speech clause protects religious reasons in public debate. That is also why we don’t vote on giving Ackerman the power to limit political language. Second, nonbelievers understand religious believers. They are just unconvinced. When believers say that God considers gay marriage to be sinful, the statement is not much different from my position that gay love is beautiful and healthy and therefore that gay marriage should be lawful. Opponents of my position just disagree in fundamental way. Ackerman would say that in principle I could convince my opponents that gay marriage is good. But in principle, the religious believer could convince the secularist in the same way. Neither is likely, but neither is impossible. Finally, it is remarkable that Ackerman never considers the possibility that religious claims are true. If the God of history really does consider gay marriage to be sinful and might punish America for permitting it, then even Ackerman would have to agree that obeying God is a public rather than a private issue. Ackerman does not even realize that his political position depends on the assumption that the believer’s claim about history is false. Ackerman falsely believes that his position is the value neutral one.

Title: All Things Shining

Date: 2011-05-18T03:40:00.005-04:00

5/18/2011—In a recent issue of the New York Review of Books, Hubert Dreyfus and Sean Dorrance Kelly, authors of *All Things Shining: Reading the Western Classics to Find Meaning in a Secular Age*, had an unsatisfactory exchange with their reviewer, Garry Wills. They talked past each other. Wills criticized their understanding of history. They his of philosophy. Dreyfus and Kelly are raising the very question of the modern, secular age—how to experience meaning without a God. These experiences of the sacred the authors call “shining moments”. Their answer aims at attacking a modern view that “the individual agent’s free choice alone determines what matters”. But the emphasis on the Greeks is inevitably an emphasis on human excellence, a point that Susan Neiman made in reviewing the book in the New York Times. Life is not really about excellence, whether exalted or simple, as in the carefully brewed cup of coffee that Wills berates. Life is about suffering. Since we all decline and die, that is true of the even most favored life. The religious traditions by and large emphasize compassion, not excellence. Theirs is a moral vision of the meaning of life. Surely their way is more truthful to the mystery of human existence.

Title: Emanuel David

Date: 2011-05-21T05:55:00.003-04:00

5/21/2011—Yesterday, my daughter Anna gave birth to a son, Emanuel David. Now here is the shocking thing about my grandson. On January 1, 2100, he will be 89 years old. This is old, of course, but one of his great-grandfathers is alive and well at 93, so I would have to say he has a reasonable chance of living to this age. We hear all the time about the consequences of our current policies, both environmental and fiscal. We are ruining the natural world through industrialism and overpopulation and we are spending money we don't have, which the next generations will have to repay. But we don't react as we should because most of us will be dead by then. I have always been troubled by our selfishness and short-sightedness. But I must say that the birth of Emanuel David has concentrated this feeling to a great degree. Simply put, I must now evaluate everything we do by the standard of how it will affect the world of 2100, in which my grandson is likely to be living. I owe this to him and to all the other little ones born yesterday and in the days to come.

Title: What Exactly Happened Today When Netanyahu Addressed Congress?

Date: 2011-05-24T19:27:00.001-04:00

5/24/2011—I have resolved never to criticize Israel when I think greater efforts toward peace should be made. After all, my life is not on the line if my judgment is incorrect. So, if Benjamin Netanyahu wants to put forward an intransigent position as if democratic change were not sweeping the Middle East—if he wants to hold on to the past instead of embracing a potentially vibrant and peaceful future, well, that's between him and the voters in Israel. But what about the disgusting lap-dog display by American representatives in Congress, especially among Democrats, allowing a foreign leader to undercut our own President in a speech on domestic soil? Even if they disagree with the position of our President, they could at least have maintained a polite reserve. President Obama did not do much more than state the American position since 1967—the starting point for negotiation is the 1967 ceasefire lines. And the American government has never recognized Jerusalem as the capital of Israel. Why should my tax dollars be spent and the friendship of Arab countries be put at risk because Netanyahu says Jerusalem should not be divided? Not even if democracy and human rights are established in a Palestinian State? Granted, that is not true now, but Netanyahu does not want it to be true, because an authentically democratic Palestinian State that recognized religious freedom would have an undeniable claim to a capital in East Jerusalem. Right now, Israel is about the only legitimate government in the area. But if democracy comes to the Middle East, why should America back Israeli land grabs? At that point, Israel's security is no longer the issue. The issue is illegal settlements that Netanyahu has no intention of dismantling. President Obama has begun the process of embracing a more hopeful future. The best way to bring freedom and democracy to the Middle East is to show that the United States is not wedded to Israeli policy no matter what. Congress did not help the cause of peace today.

Title: Time to Rethink Public School Prayer

Date: 2011-05-27T08:33:00.003-04:00

5/27/2011--Check out my opinion piece in today's edition of the online magazine, Religion Dispatches here.

Title: Happy Memorial Day

Date: 2011-05-30T05:19:00.000-04:00

5/30/2011—Apropos of Memorial Day, the New York Times yesterday ran a kind of review essay in the book review section of revisionist historical views of the morality of mass civilian bombing in WWII with the express goal of destroying German and Japanese will to resist. There is not much doubt that by 1944, the goal of strategic bombing had in fact changed from destroying military production capacity, with high resulting civilian casualties, to targeting cities generally. Dresden and Hiroshima followed. The issue is more or less this, if the allies targeted civilians for an effect on morale, how does this differ from the terrorism that we condemn today? How does this differ from 9/11? The answer here must not deny the obvious. Bombing in WWII, atomic and conventional, did target civilians at least in part and did so to destroy the will of these enemy nations to resist. Bin Laden would have said he was doing the same thing. But this parallel is misleading. In criminal law, the doctrine of necessity allows a person to violate the law, doing things that would otherwise be unlawful, when there is genuine necessity to do so. Necessity, however, does not include an inability to persuade a majority to change its view of an issue. So, destruction of property of others is permissible to keep me warm in a blizzard, but not to protest the War in Iraq. Here lies the difference between the allies in WWII and terrorists today. War was thrust upon the allied nations by aggressive war waged against them (waged also by the Soviet Union at the beginning, of course). There was no alternative to victory in order to win that war and prevent the current regimes from trying again. The terrorists of today cannot say there is no alternative to violence. There is simply no alternative that will be as effective in their eyes as terrorism. They turn to violence because they cannot persuade. Of course this distinction means that the United States has an obligation to give even violent groups an alternative to violence. The first amendment does not require that violence be renounced in principle before one is allowed to speak. The same principle would require dealing with Hamas once it democratically achieves power.

Title: When You Get to a Certain Age

Date: 2011-06-01T05:30:00.000-04:00

6/1/2011—I'm 59, and when you get to that age, the classic transitions come or are already here. You are aging. Your parents are dying. Your children are rearing children My wife and I were flying up to see my new grandson on Sunday and so I was reading two newspapers pretty closely, the Pittsburgh Post-Gazette and the New York Times. Maybe I am experiencing confirmation bias, but there seemed to be a lot of stories about aging parents. One such story was a book review of *A Bittersweet Season*, the quasi-memoir by Jane Gross about her experience caring, with her brother, over her mother's decline. (Her mother died at 88 after assisted living and a nursing home). Another was Sally Kalson's beautiful essay about her mother's 90th birthday. (Maybe two is not so much). Now there are two aspects to attention paid to this kind of aging. There is the sociological. Baby boomers are a big group and their concerns generate a kind of cultural interest. The parents of baby boomers are dying and they themselves are in unmistakable decline. The end is a lot closer than the beginning. But the other aspect is the spiritual. As life draws to a close, you cannot help but ask what is its point. If God is not a being to return to in death, then what was the point? Which brings me back to the birth of my grandson. Life renews every year. If it were not for the death of my parents, there would be no room for Emanuel. If it were not for my death, there would be no room for his child. And even if an individual does not reproduce, the truth still applies. The dynamism that is life requires death. So Disney had it right all along. The point of our lives is to be a part of the great circle of life. The same may even be true of existence. The existence of this universe may require the birth and death of the universe itself. Our part to play, while we are on the stage, is to care for the future and preserve the best of the past. I have to say that fiscally and environmentally, we are doing a pretty poor job.

Title: The Debt Limit is Somehow a Theological Dispute

Date: 2011-06-03T05:19:00.001-04:00

6/3/2011—One of the reasons that political compromise is so difficult these days in America is that our political Party coalitions have become convinced that the other side is evil. This extends to purely secular concerns, such as gun control. So, this is really not theology at work. But there seems to be a theological aspect to the budget standoff in particular that has to do with government. According to news reports today, a downgrade of government bonds will happen unless the debt ceiling is raised “soon”. Such a downgrade would be a disaster for the U.S. in many ways, not least financial. But the Republican side would pretty clearly be willing for this to happen. For all I know, they would be willing to stop paying interest on US paper so that no one would ever again buy US bonds. The idea seems to be that government is an enemy. (The reason I don’t think this attitude suggests that borrowing is wrong is that there is no equivalent opposition to private debt, such as mortgages or business lending.) If government is an enemy, it would be good for it to fail, even if it engendered some suffering. I’m not sure why government is an enemy. The actual theology of all this escapes me. Nevertheless, the religious right is definitely supportive of the Republican side in this standoff. I would like to see the theological issues addressed. But I don’t see an honest theological debate going on. Even though theology in America really means Christian thinking, conservative and liberal Christians don’t discuss much in the public square. Naturally theology in politics is always enhanced by self-interest. Republican strategists have concluded that even if they are blamed for the turmoil, President Obama will be the one harmed on election day. This thinking is just stupid on their part. Obama is vulnerable on the economy in 2012. They are just giving him an excuse for the economy’s poor performance.

Title: Just What or Who is God and Who Believes in God?

Date: 2011-06-06T11:04:00.001-04:00

6/6/2011—On Sunday, May 29, the New York Times reviewed a new translation of the 15th-century Indian poet Kabir. Kabir was a part of the Hindu bhakti movement, even though he was born to parents who had converted to Islam. One aspect of that movement has to do with God. Here is what August Kleinzahler writes in the review: “Bhakti encouraged the informal over the formal, the spontaneous over the prescribed and the vernacular over Sanskrit. It disregarded class distinction. It regarded no single religion as providing the exclusive way to God. Scripture was seen as an impediment to the union of worshiper and God, a union Kabir describes in erotic language: ‘Lying beside you, / I’m waiting to be kissed. / But your face is turned / And you’re fast asleep. . . / I have one husband: you. / You have one wife: me. / Who’s there to come between us? / Beware, says Kabir, / Of the man you love. / He can be a tricky customer.’ Bhakti was a Pan-Indian movement. Kabir is its greatest poetic exemplar.” But what does Kabir teach us about disputes in American constitutional law? One of the issues in the caselaw has to do with minority believers, such as Buddhists and Hindus. Justice Scalia thinks that God may be worshipped in the public square and that nonmonotheist believers may be disregarded. The example of Kabir, though, suggests that this division is too facile. There may be a place for God-language in those traditions as well. This does not mean that Justice Scalia is correct, however. He is assuming that God can only mean one thing—the single creator supernatural being. That is not necessarily what Kabir is referring to. Indeed, it may not be what some people in the monotheistic traditions are referring to. We can go another step here. Not only might nonmonotheistic believers have a sense of God, but nonbelievers as well. After all, atheists usually only reject the supernatural creator God. They don’t necessarily reject the intimate experience of unity that Kabir is trying to describe.

Title: My Fellow American

Date: 2011-06-08T20:24:00.006-04:00

6/8/2011—I would like to take a moment to introduce my blog readers to a website that seeks to challenge the mistrust of Muslims in America, both our fellow <http://www.blogger.com/img/blank.gif> Muslim citizens and visitors. The website is entitled “My Fellow American” and it can be found here Let me quote from the home page: “My Fellow American is an online film and social media project that calls upon concerned Americans to pledge and spread a message that Muslims are our fellow Americans. It asks people of other backgrounds to pledge, and share a real life story about a Muslim friend, neighbor, or colleague that they admire. Using the power of social media, My Fellow American seeks to change the narrative of Muslims as the other, to Muslims as our fellow Americans.” I hope you will all visit the site and encourage this important and needed work. My only problem with the site is a feeling of embarrassment that, in this country historically dedicated to religious liberty, such an effort should be necessary. Nevertheless, it is.

Title: What Are the True Sources of Wealth?

Date: 2011-06-10T18:31:00.003-04:00

6/10/2011—It is a caricature that Republicans believe what is good for General Motors is good for America. It is a caricature in part because positive government action was good for General Motors and many Republicans opposed it. The modern version of this saying is that Republicans believe that rich people create wealth. During the budget negotiations a few weeks ago, House Speaker John Boehner said, "It's clear from this morning's jobs report that the economy still isn't creating enough jobs. You talk to job creators around the country like we have, they'll tell you the overtaxing, overregulating and overspending that's going on here in Washington is creating uncertainty and holding them back. If we're serious about creating jobs in America, we can't raise taxes on the very people who create jobs, and keep spending money that we don't have." Now I agree with Boehner that spending money we don't have is not a long-term path to prosperity. But it was President Bush who turned surpluses into deficits in order to lower taxes on those people who "create jobs". Well, since President Obama only wants to raise taxes on persons who earn more than \$250,000 per year, it is fair to say that Boehner believes that rich people "create jobs". Of course I am not being quite fair. Boehner would not say that all rich people create jobs. He means that entrepreneurs—business owners—create jobs. I'm not going to point out how silly it is to suggest that higher taxes discourage economic activity by entrepreneurs. I guess that might be true if marginal rates climbed back to 70%, where they used to be (when America was actually prosperous), but certainly it is silly to suggest that rates of 30% vs 35% would make any difference. However, that is not the real problem with Boehner's worldview. The problem is where he thinks wealth and jobs come from. They don't come from brilliant individuals with clever ideas. Wealth and jobs come from meeting needs of people who can afford to buy products and services. In other words, wealth is created by markets not by entrepreneurs, by demand, not by supply. The reason we don't have jobs has nothing to do with regulations, which are always around, or taxes, which are historically low. We lack jobs because we have over time eviscerated the middle and working classes, specifically in search of unleashing the power of Boehner's alleged job creators. This policy of channeling money to the wealthy has failed. Why don't we go back to the policy of the postwar and try to spread the wealth around? If you want to see a heavily taxed, heavily regulated, job creating machine, you only have to look at China and its enormous market.

6/12/2011--Austin Cline has criticized my defense of high school graduation prayer at About.com. Obviously, I am grateful for him for doing this. Only in this way will secularism get real about its commitments. Cline notes that I claim a need for “communal expressions of meaning” and rightly says that this umbrella would justify any such expression, including religious ones. Readers of this blog and my new book, however, are aware that I agree with Cline that government endorsement of religion is unconstitutional. Our difference is that I would not deny the use by government of traditional religious imagery to express messages that are not themselves religious. A Ten Commandments display to express the commitment that justice is real is not religious. More generally, Cline asks why any such communal expressions of meaning are necessary? This is a good question. Why are people so anxious that there be communal prayer? Partly the answer is a desire for praise of the supernatural God of monotheism and Cline and I agree that this should be considered unconstitutional. But it might well be instead a communal desire to express what Justice O’Connor once called confidence in the future. We might want to express our mythic hopes and dreams. We might want a taste of transcendence. And we might want a sense that we belong together. Americans have always had at least this creed—that all men are created equal and that we are endowed with rights that are not the gift of government. So what if the Declaration of Independence used the word Creator to make that point? The point is still political, not religious. Cline says that my criticism of some secularists as thinking that “any communal expression is too close to religion to be permitted” is a straw man. Actually, I believe that Cline represents precisely this tendency himself. Otherwise, I don’t understand why “prayer” would be unconstitutional. Prayer, after all, need not include any religious references. The French atheist Andre Comte-Sponville wrote in his marvelous book *The Little Book of Atheist Spirituality* that “[l]ove and prayer are merely the highest form of attention” (quoting Simon Weil). What makes that problematic for Cline is precisely that prayer feels religious, not that it must always be religious. I do support separation of church and state. But I define “church” quite narrowly. I would love to see the government endorse all traditions of meaning that oppose relativism, materialism and nihilism. Many of those traditions are religious. But not all of them. Nothing about that endorsement would threaten secular government. As I’m sure Cline will agree, there is no necessary connection between secularism and relativism.

6/15/2011—On June 2, in a split opinion, Judge Pierre Leval, joined by Judge Guido Calabresi, upheld the New York City Board of Education policy that exempts “religious worship services” from the general policy allowing community groups to use schools after hours for community purposes. All other uses of school space are permissible except for “religious worship services”. Judge John Walker dissented.

Two aspects of the opinion are weird. First, the court upheld the exclusion in large part because the school board’s concern of possibly violating the Establishment Clause if religious services were allowed constituted a legitimate reason for banning the services.

But the court could have decided the Establishment Clause issue. If the court had held that permitting the services in the schools would violate the Establishment Clause, then obviously the policy excluding them is justified. On the other hand, if the court had decided that allowing the services would not violate the Establishment Clause, then the school board is unconstitutionally discriminating against a religious viewpoint for no reason.

Instead of resolving the matter, Judge Leval wrote, “we need not decide whether use of the school for worship services would in fact violate the Establishment Clause...It is sufficient if the Board has a strong basis for concern... .” This confuses the role of the Board and the role of the court. It is true that the schoolboard must be careful because it cannot be sure what does and does not violate the Establishment Clause. But the Second Circuit is in a position to decide the matter. The court is permitting an injustice to go forward if there would be no Establishment Clause violation and is allowing religious people to blame the Board for a policy that the Constitution requires, if there would be a violation.

The other oddity in the opinion is that the court then does not decide whether there is such a thing as a non-religious worship service. And, indeed, Judges Leval and Calabresi seem to split on whether if such non-religious worship services exist, they are barred by the policy. This is not a fanciful problem. I don’t know exactly what the Humanist Chaplain does at Harvard, but this is how Gregg Epstein is described on the website:

*Greg M. Epstein serves as the Humanist Chaplain at Harvard University, and is author of the New York Times Bestselling book, *Good Without God: What a Billion Nonreligious People Do Believe*. He sits on the executive committee of the 36-member corps Harvard Chaplains. In 2005 he received ordination as a Humanist Rabbi from the International Institute for Secular Humanistic Judaism, where he studied in Jerusalem and Michigan for five years. He holds a BA (Religion and Chinese) and an MA (Judaic Studies) from the University of Michigan, Ann Arbor, and a Masters of Theological Studies from the Harvard Divinity School.*

Since there are “services”, it is impossible to tell whether this humanist congregation is barred by the New York Board policy or not. For that matter, there are a number of religious groups that lack a sense of the supernatural and there could well be religious naturalists who say they “worship” nature.

Title: Listen to the Indiana University Press podcast

Date: 2011-06-17T16:13:00.006-04:00

6/17/2011--The podcast about Church, State, and the Crisis in American Secularism can be accessed [here](#).

Title: What is Religion/What is Prayer?

Date: 2011-06-20T11:40:00.001-04:00

6/20/2011—Welcome from Chautauqua, where The Institute on Religion in an Age of Science is holding its annual convention. The topic is good and evil. IRAS is an organization that exists, in a way, to make shambles of the notion of separation of religion from the rest of life, including science. The group seems more to have come from the religion side, rather than the science side, but there is a general commitment to a nonsupernatural comportment and tremendous respect for science in particular. Yet the religious ambiance remains very strong. Every morning we begin with “chapel” led by UU Minister Barbara Jamestone. Every evening we end with a “candlelight service”. I find these services very refreshing and I wonder how strict atheists think we can do without them, or something like them, as a public part of the culture. As the great French atheist writer Andre Comte-Sponville writes in *The Little Book of Atheist Spirituality*, funerals provide “a sorely needed ritual—a ceremony... . A human being can’t be buried like an animal or burned like a log.” This leads to the question of prayer on public occasions. Here is a soft melody we sing at chapel every day: “We the heirs of many ages, with the wise to guide our way, honor all earth’s seers and sages, and the science of our day.” Could I begin a high school graduation ceremony with this tune? In chapel, it is called a call and response. That sounds religious. Is the title the important point? Surely the Establishment Clause is more than nominalism.

Title: The Promise of Religious Naturalism

Date: 2011-06-23T06:12:00.001-04:00

6/23/2011—The Institute on Religion in an Age of Science seems quite dominated by devotees of what is called Religious Naturalism. Prominent authors are here—Ursula Goodenough and Loyal Rue among others. Three days have been devoted to Michael Cavanaugh’s manuscript “Religious Naturalism: the Next 100 Years”. Tuesday night we watched the beautiful and moving movie, “Journey of the Universe”. And Gerald Robertson gave a presentation yesterday on the Science/Religion dialogue in Religious Naturalism. Until I got here, I would have said that Hallowed Secularism and Religious Naturalism were the same thing, more or less. I certainly felt right at home with Jerome Stone’s book, Religious Naturalism Today. Stone even wrote a blurb for my new book, which applied Hallowed Secularism to Establishment Clause issues. For me, naturalism was natural and was what caused me to leave Judaism. There is the rub, however. For me, naturalism was just a veto on religious truth. Nothing in my religious understanding could actually contradict something science had shown to be true. For example, if mind is what the brain does, then my mind could not survive the death of my brain. So, no after life, at least for my personality. But Our Religions generated the truths by which we could seek to live. Stone’s religious naturalists were consistent with this approach. They were basically philosophers and theologians. But the people here, not surprisingly, start with science. In the movie, Brian Swimme describes the trouble humans are now in as we abuse the planet. He says that “wonder will get us through”. If you believe that, then it is really important to teach the beautiful and awe inspiring universe story. It’s not that I disagree exactly. Our Religions have all taught the insignificance of the human from the power and beauty of nature. Maybe this new insight is even better. But science is ultimately value neutral. Even the story Swimme tells is value neutral in and of itself. My reaction to the movie was, if humans screw this up, nature will just start over.

6/26/2011—Douglas Laycock, professor of law at Virginia, is a great man. He is particularly a great man in the field of church and state. His terms dominate discussion in legal circles about religion in the public square and religious liberty generally.

But Douglas Laycock shares a trait with most law professors. He does not feel enough responsibility for the political health of America and he does not think hard enough about the relationship of his constitutional understanding to that political community.

I say that because of Laycock's answer to criticism of his position on "under God" language in the Pledge of Allegiance [from 89 Texas Law Review 949]:

"[T]his is a wholly academic discussion. '[U]nder God' in the Pledge is not going away. Forced to consider the issue by Michael Newdow's first lawsuit, I gave the principled answer that the current Pledge is unconstitutional. But nothing good can come from Newdow's litigation, which is many decades premature. The nonbelieving minority is not yet large enough or influential enough to have such a politically aggressive claim taken seriously. If Newdow ever gets the Supreme Court to consider his claim on the merits, he will almost certainly lose, and the opinion may do much broader damage to Establishment Clause doctrine. If he were to win, the victory would be Pyrrhic, leading to a constitutional amendment, widespread defiance of the Court, or both.

My amicus brief in Newdow, to be reprinted in volume 4, was an attempt at damage control. I made the argument for why the Pledge is unconstitutional, not in any hope of winning, but hoping only to get the Court to take the issue seriously and write a more cautious opinion. And then I suggested a way to uphold the Pledge that would do the least damage to surrounding doctrine. I am not campaigning to amend the Pledge. Here too, the perfect should not be the enemy of the good."

Here is a good man gone terribly wrong. "Not yet large enough". "Decades premature". Does Laycock understand the implications of this language? We are to have decades of political strife over God. We are to have elections over whether God should be banished from the public square. Doesn't Laycock understand the damage this will do? It is a perfect recipe for demagoguery, especially as the nonbelieving majority grows almost large enough to succeed.

This is Ronald Dworkin's question all over again: are we going to be religious or secular? We just cannot be forced to answer that question. And if law so forces us, then law must be changed.

Laycock would say that none of this is his fault. He is not campaigning to amend the Pledge.

But it is his fault and that of others like him. He is the expert telling secularists that the Pledge is unconstitutional.

Undoubtedly there are times when the proper interpretation of the Constitution leads to political strife. Even long-term strife. Maybe *Brown v. Board of Education* was such an example.

But such a situation is rare. Why must God be interpreted in this way? Laycock's position means that the Declaration of Independence is constitutionally suspect today. Can that really be right? Isn't the Declaration the norm? It seems to me that the responsibility of every constitutional interpreter is to explain why public reading of the Declaration is constitutional. Laycock has not worked hard enough for peace. And his hiding behind "principle" is abdication.

Title: Don't Liberals Have a Hatred for Public References to God?

Date: 2011-06-29T05:03:00.001-04:00

6/29/2011—Isn't GOP Rep Todd Akin (MO) correct in asserting that liberals, religious or not, have a hatred for public references to God? If "hatred" is too strong a word, how about opposition? I just wrote a blog reference on Sunday about Douglas Laycock's view that "under God" in the Pledge of Allegiance is unconstitutional. Isn't that Akin's point? Laycock was sanguine about an ongoing political fight concerning God in the public square. I think such a fight will be a political disaster on many levels. Well, Akin's comment is what that fight will look like. How do you like it? And you can expect the same demagoguery that Akin exhibited in conflating hatred for public references to God for hatred of God. Akin coyly called that important distinction "a little more precise" when he had been intentionally calling all liberals atheists. No, plenty of liberals are theists, but most believe that God, like all religion, is something private and should not be expressed in public. This is poor political theory. References to God have something to do with justice and social morality, as Martin Luther King knew. His references to God on public occasions were political. The reference to Creator in the Declaration of Independence was political. Lincoln's references to divine will were political. Liberals should rethink reflexive opposition to God language in the public square. Otherwise they/we will be practicing an impoverished politics subject to divisive attacks like that of an Akin

Title: What Did I Learn From the Huffington Post Piece?

Date: 2011-07-02T09:24:00.003-04:00

7/2/2011—On Wednesday, after blogging here concerning Todd Akin's comments, I posted similar ideas on Huffington Post: "Well, Don't We Liberals Hate the Public God?" The result was 347 comments and the piece was picked up all over, including the Wall Street Journal online. Since I am trying to drum up interest in my book, this is nothing to sneeze at. Yet, I am a little disappointed by the comments. I shouldn't be. I wrote after all that Akin was right in a way. The comments demonstrated that. The points made were along the following lines: "You can't hate what doesn't exist." Well you'd think so, but Hitchens clearly hates the idea of God, as the existentialists did. Anyway, the point is public references to God, which the people writing in certainly hate. "God means God" This unthinking acceptance of what some religious believers say is sort of odd. It is almost that liberals want to fight against the symbol, God. People do use the term in many other ways, even within the religious traditions. I shouldn't be surprised. Justice Scalia once wrote the same thing: "This is not necessarily the Christian God (though if it were, one would expect Christ regularly to be invoked, which He is not); but it is inescapably the God of monotheism." "The framers separated church and state" Well they did something, but what they did and how we should interpret what they did is the question, not an answer. It is a little hard to show that most of the framers would have objected to the current Pledge of Allegiance. "Religious believers are always trying to get their religion accepted in public" My fault for not writing that I am not a believer. I forget that it must always be stated. "This God is a power play by" A power play against nontheist religions, against nonwhite peoples, and so forth. Certainly some truth here. This is the old story: when the missionaries came, we had the land and they had God. Now they have the land and we have God. No one can defend everything done in the name of God. "God language is divisive" Well, yes, as we can see. But anything substantive is divisive in the sense that some people do not agree. The claim that all men are created equal helped spark a civil war. It was a claim worth making, however.

Title: Happy Fourth of July

Date: 2011-07-05T06:02:00.002-04:00

7/5/2011—This entry appears one day late because the dog is afraid of fireworks—and thunder--of which we had a lot yesterday. In the movie 1776, Thomas Jefferson is portrayed as being asked where the rights of the colonists come from? If they come from the King and Parliament or even from the British Constitution, what is the justification for revolution even if they are taken away? Jefferson replies that rights come nature. We are born with them. That is why they are both self-evident from our natures and unalienable. And the denial of these rights renders King George a tyrant, objectively speaking. The final language of the Declaration of Independence used a different formulation: endowed by their Creator. Undoubtedly, this shift was meant to capture the imagination of the Christian mind with the claim that our rights come from God. On the other hand, the word Creator is ambiguous in the sense that we all come from nature. The universe is our Creator, after all. The source is not clarified so that it can mean different things to different people. The source of rights was not the point of the Declaration. The point was that rights are real so that there denial is wrong. It is not a matter of opinion. Because we have a greater sense of our capacity to fool ourselves and act in mere self-interest when we pretend to be acting nobly and because we have a greater sense of change in history and because we have a greater sense of cultural diversity than did our founders, we are nervous about claims to objectivity. But I believe this is temporary and that humanity will reclaim its balance. We often fool ourselves, but not always. History clarifies and certain values endure. Cultures contain more commonality than difference. And we can appreciate what is valuable in each culture. So, let's not be quick to downplay the Declaration of Independence. It is our founding document and a monument to both liberty and democracy. Human beings are not things but citizens of the universe. We have dignity and rights that must be respected—as well as responsibilities that we are neglecting. We vote on these things but we do not ultimately decide them. Our rights and our responsibilities are objective.

Title: Check out ACS BookTalk

Date: 2011-07-07T17:43:00.005-04:00

7/7/2011--Check out *Overcoming the God Wars*, my entry for the American Constitution Society blog's BookTalk, [here](#).

Title: What is God, Anyway?

Date: 2011-07-10T06:09:00.003-04:00

7/10/2011—When I propose that the word God in the public square can be reinterpreted along nonreligious lines, as in reality is trustworthy in the national motto, I am often accused of attempting to change, or worse, pretend to change, the definition of God. The charge was most recently raised by an anonymous critic on the American Constitution Society's Book Talk [site](#), with the following comment:

“So your solution to the problem is to change the meaning of the word God? Or at least, to change the meaning of it for those people who care that a constitutional violation would be taking place unless the meaning of the word changed? And this is accomplished how? Buying your book is no doubt the first step, but if you were to give a preview, do we call up all the dictionary publishers and tell them to change their entries?”

Now, I keep pointing out that my suggested usages of God are not only well established outside the religious traditions, as in John Dewey, they actually exist within the religious traditions themselves—famously Rabbi Mordecai Kaplan created an entire Jewish movement, Reconstructionist Judaism, by considering God “the power that makes good possible”. I also point out that government would have to credibly maintain a nonmonotheist position to take advantage of my proposal.

But I am beginning to wonder what even my critics mean by God. Survey after survey shows that overwhelmingly, most Americans believe in God. Here is some detail from Wikipedia: “A late 2009 online Harris poll of 2,303 U.S. adults (18 and older) found that ‘82% of adult Americans believe in God’, the same number as in two earlier polls in 2005 and 2007. Another 9% said they did not believe in God, and 9% said that they were not sure. It further concluded, ‘Large majorities also believe in miracles (76%), heaven (75%), that Jesus is God or the Son of God (73%), in angels (72%), the survival of the soul after death (71%), and in the resurrection of Jesus (70%).’”

But the traditional God of Christian theology functioned in a very particular way and I wonder if this is what people still mean. For example, Alison Lurie was reviewing the book *Pulse* by Julian Barnes in the *New York Review of Books* in the June 9, 2011 issue and asked what has happened to Oscar Wilde's rule for literature: “The good ended happily, and the bad unhappily. This is what Fiction means.” It has been amended by Tom Stoppard: “The bad end unhappily, the good unluckily. That is what tragedy means.” Lurie says that “only genre fiction” now reliably ends happily.

Why the preference for the downbeat? One explanation among others is “that most of us no longer believe in a God who will make everything clear to us eventually, or a happy afterlife in which all sorrow will be at an end.”

Maybe this explanation is wrong in its premise. But that God is the God of St. Paul: “For now we see through a glass, darkly, but then face to face: now I know in part; but then shall I know even as also I am known. ...” (I Cor. 13). Is that our God?

Title: The Utah Bigamy Law Challenge

Date: 2011-07-12T22:11:00.001-04:00

7/12/2011—It is a little humorous to see academics who usually champion constitutionally protected sexual conduct scramble to distinguish the Utah bigamy statute that the Sister Wives family is about to challenge in federal court. It seems a little arbitrary to say that gay marriage is protected and for that matter adultery is protected but bigamy is not. Nevertheless, Cardozo law professor Marci Hamilton was up to the task, arguing on NPR that bigamy exploits women and children. Well maybe it does, but there are two problems with the Utah law. First, the law says nothing about exploitation. The crime is, according to news reports, holding oneself out as married “spiritually” to a person other than one’s spouse (Kody Brown, the husband, is legally married to only one of the “wives”). If there is a protected liberty interest in this man and these women living together in an unmarried state, how could there not be the same interest even if he is married to one of the women? There is also a free speech issue. The “crime” seems to turn not on what a person does but on what a person says. People living together are not guilty of any crime unless they “say” they are spiritually married. There is also a free exercise of religion issue, not in the right to live together or be married to more than one spouse, but rather in that only those who live together in accordance with the dictates of their religion seem to violate the law. There is also a standing issue. No one has been prosecuted or directly threatened with prosecution. So, a federal judge may rule that the challenge is not ripe.

Title: Radio Interview with Barry Lynn

Date: 2011-07-15T14:03:00.004-04:00

7/15/2011--Barry Lynn, National Director of Americans United for Separation of Church and State, will interview me about church/state issues on Thursday, July 21, 2011, at 4 pm, EDT. The interview can be accessed at Culture Shocks, [here](#).

Title: Is Harry Potter Secular?

Date: 2011-07-17T05:17:00.003-04:00

7/17/2011—Believe it or not, I did not come up with this question. It was asked, more or less, by Jewish Pantheist (what he calls Nondual Judaism in his book *Everything is God*) Jay Michaelson in *Religion Dispatches* (*The Trouble with Harry (Potter)*). Having just seen the last movie, and loving the series, I'm glad to have this excuse to write about it. Michaelson's point is that religious conservatives are right to mistrust the Potter series because there is no God. All the power is this-worldly. Even the "resurrection" in the movie occurs because of an object and would not have occurred without it: "The closest the series ever comes to something like providential grace is in the case of Gryffindor's Sword, which twice appears out of thin air to aid heroes in distress. Yet, we are told, this too is the result, not of any super-human force, but of Gryffindor's own power." I'm not sure whether I agree with Michaelson, or disagree, or whether we disagree about terms. There is no God in Harry Potter, but good and evil do not stand on the same footing. Neville Longbottom makes the point at the end of the movie—Voldemort will fail despite his powers because he is seeking something that is wrong. Michaelson misses the providential grace that structures everything in the Harry Potter series. Dumbledore states the role of grace: "Help will always be given at Hogwarts to those who ask for it." This is Jesus in Matthew 7:7: "Ask and it will be given to you; seek and you will find." Michaelson might say that all of this is this-worldly. But monotheism at its heart is not about a separate, supernatural being—or else Mordecai Kaplan would have been a pantheist, which he was not. Monotheism teaches that there is more to this world than meets the eye. Somehow good is structured in to the matter of the universe. And it will triumph over evil. Or, as nonpantheist Martin Luther King, Jr. put it: "the arc of the moral universe is long, but it bends toward justice." Now ironically for me, this is secularism, hallowed secularism. And there isn't any dualism because this world is all there is. Yet the alternative to the supernatural is not pantheism, at least not as I understand the term.

7/20/2011—I have always been a deficit hawk. It has always seemed to me that stable economics requires generally that no deficits be run without particular cause. Of course, the irony is that only the Democrats have recently run surpluses, not Republicans, who turned surpluses into deficits, partly through an intentional policy of “starving the beast” through unwise tax cuts during the Bush Administration. So, I look with some fondness on the House proposal of a balanced budget amendment to the Constitution. I worry that it does not allow for counter cyclical deficits, but that could worked out. You do sometimes want to run deficits. But a constitutional amendment is not supposed to decide a basic policy that should be for the people of every generation to vote on democratically. This amendment proposes a cap on government spending of about 18%. It’s not just that the cap is too low—we spend 24% of GNP now and were spending more than 18% before the recession. The problem is that if democracy is to mean anything, it should mean that the people decide in every age what kind of political and economic arrangements they want to have. If they want to have single payer health care, for example, like most other countries, versus the current system, that would obviously require more than 18% spending. But just as everyone would agree that the kind of healthcare system we have should be a democratic decision, the general level of spending should be too. Perhaps one day, the people of the United States will decide they want to have a basically socialist system. All the current Constitution says is that expropriations would have to be paid for. The Constitution does not endorse capitalism. That is how matters should stay. Amendments to the Constitution require supermajorities to pass, so they look democratic. But they are not. They are meant to remove certain matters from democratic debate. So they are always undemocratic in that sense. For certain matters—fundamental rights, for example—we want to take away the power of the majority. But if we press a constitutional amendment simply because we fear that we won’t be able to convince a majority of voters of our policy preferences in the future, then we are abusing the amendment process and showing contempt for democracy.

Title: The National Day of Prayer

Date: 2011-07-23T07:46:00.000-04:00

7/23/2011—During my interview with Barry Lynn, Executive Director of Americans United for Separation of Church and State, last Thursday, the issue arose of litigation over the National Day of Prayer. Back in April, a three judge panel of the 7th Circuit Court of Appeals dismissed such a challenge on standing grounds. Three questions arise around this kind of challenge. First, should such challenges be brought or are they needlessly provocative and hopeless? But if government is supposed to be neutral about religion, and if prayer is a religious activity, what business does government have promoting a religious activity? A challenge of this kind is not frivolous, so how can the plaintiffs be blamed for bringing the suit? The second question is about standing. Should the courts dismiss such cases on standing grounds, as the courts do increasingly? The answer to that is certainly not. If the Constitution forbids the establishment of religion, then surely a voluntary establishment must be challengeable. If we are at the point that a formal proclamation of Christianity as the national religion cannot be challenged by any citizen and the subsidy for Christian preachers cannot be challenged by any taxpayer, then the courts have amended the Constitution to remove the Establishment Clause through procedural rulings. No matter what you think the Establishment Clause means, that is absurd. But the third issue is the merits. Here I think the challengers are wrong in presenting prayer as a uniquely religious activity. They say this because we usually think of praying to God. But Buddhists pray. Prayer is a very broad activity. Let me put it this way. What if Congress could be convinced to amend the National Day of Prayer to The National Day of Prayer and Reflection? To me this would be the perfect solution. It would be completely inclusive and would get to the point that all Americans should seriously reflect on who and what we are as a nation and whether we are measuring up to proper standards of right and wrong and whether we are caring for all the gifts we have received, for they are gifts even if there is no God. I wonder what Barry Lynn would say about such a proposal. I think it would split the separation people. It still sounds religious, I admit, and Congress would be doing it to allow prayer, I also admit. But so what? I don't want to get to the point that the secular means shopping and national security and religion gets everything of depth and value.

Title: The Heat

Date: 2011-07-26T08:42:00.002-04:00

7/26/2011—The heat is now moderating. But before we forget, the heat wave the country experienced the last week was genuinely historic in scope—across almost the entire country. Now, I know that no natural event can be attributed to global warming. But the question is, what will a warmer world actually look like? It will look just like this last week. It will just happen more often. When I talk this way, I get lots of different responses. Some really good people tell me that “climate does change”. What I never hear, and should, is panic. Why is there no panic over these changes, which might include desertification of large swaths of the US? Some people just deny that it is happening. A person told me last week that there has been cooling since 1991. There hasn’t, of course. Global warming does not mean a new record high every year. The best indicator of warming is the absence, almost without exception, of abnormally cooler years. That just does not happen anymore. With a normal climate, you get highs and lows. Not just highs of various intensities. Then we hear that the warming is cyclical and has happened before. This is supposed to mean two different things. One, we are not causing it. Two, we can get used to it. As to the first, of course there have been warming cycles before, maybe even really rapid ones—actually I’m not sure there ever have been natural cycles this rapid. But that would mean that all the predictions that warming would happen just coincidentally occurred right before a natural warming event. You’d have to believe in the Easter Bunny. Finally, some people think we can adapt. Well, it’s true that humans can adapt to a warmer world. The world has been warmer before. I once heard a government official pontificate that this particular climate is not better just because it is the one humans have had. This sort of talk is what happens when theory overtakes reality. Let’s say Las Vegas becomes uninhabitable. Won’t the people just eventually move somewhere else? Yes. But it will still be a catastrophe. This climate that we have had is not the best abstractly, it just happens to be the one we are organized around. If humans have to adapt to a new one, we will. But the costs will be unimaginable.

Title: Is Anders Breivik a Christian Terrorist Or Not?

Date: 2011-07-28T06:01:00.002-04:00

7/28/2011—A lot of ink—electronic or otherwise—is being spilled over the question whether the violence perpetrated by Anders Breivik justifies labeling him a Christian terrorist in the same way that violence from within the Islamic world is often labeled Islamic terrorism, even though the links to Islam are thin or even nonexistent. If Breivik is a Christian terrorist then the critique of Islam as inherently violent is weakened and the claim that religion in general is violent is strengthened. Some of this analysis, like that of Mark Juergensmeyer in Huffington Post, argues not that Breivik is such, but that he is as close to Christianity as some terrorists are to Islam. One of the thorough examinations of 2083: A European Declaration of Independence, Breivik's statement of the culture clash that threatens Western civilization, was published yesterday by Sarah Posner in Religion Dispatches: How Breivik's "Cultural Analysis" is Drawn from the "Christian Worldview". While I am loath to spend my time on nut cases, it was suggested to me that I have to say something about Breivik, because if he is a religious or specifically Christian nut, it challenges my common ground approach. Fair enough. But I am using Posner to avoid having to read Breivik. According to Posner, Breivik's major idea is that cultural Marxists and political correctness are undermining the values of Western civilization. To Posner this is a "cohesive ideology known as the 'Christian worldview,' which in turn is the product of Christian anti-communist activism from the Cold War era." Well ok. But what does it have to do with Jesus? Or even religion? Any rich capitalist might say most of this. It sounds mostly economic with a basic anti-post modernist relativism combined with a fear of Muslims. It does not sound like a Christian terrorist or a religious one. Actually Breivik still sounds like a nut whose example shows not very much about anything.

Title: Maybe There is No Such Thing As Establishment of Religion

Date: 2011-08-01T20:01:00.001-04:00

8/1/2011—On July 27, Austin Dacey, the noted atheist and author of *The Secular Conscience*, published an essay on [Religion Dispatches](#) in which he argued, a little tongue in cheek, that there is no religious freedom.

What Dacey meant was that religious claims to exemption from generally applicable laws—think the exception during Prohibition for wine for religious use—do not differ intrinsically from any other claim for exemption for any other reason of conscience.

I basically agree with this position, which a number of academic lawyers have been making, to the effect that free exercise of religion should protect claims of conscience generally. The issue has not been that significant for two reasons. First, the Free Exercise Clause itself has been emasculated by the Supreme Court and provides little protection to anyone. Second, where religious exemptions exist, courts have tended to apply them generously to anyone with a religion-like claim.

But I have been thinking that this equality position entails more than its proponents realize. I wrote a letter to that effect to *Religion Dispatches*. The letter follows:

To the Editor:

As always, Austin Dacey raises provocative issues in his recent piece, "There is No Religious Freedom." But this time, Dacey does not take his analysis far enough.

Dacey argues that religion has no special claim to exemption from law or recognition in law. Government should not be supporting religion per se and whatever secular values religion may be said to be furthering, should be supported by government whether founded in religion or nonreligious traditions. Thus, there is no religious freedom, there is just freedom.

But the logical conclusion of this argument, is that there is no religion either. There are just normative claims of various kinds—"radical normative pluralism," as Winnifred Fallers Sullivan puts it in Dacey's article. We just happen to call some of these normative pluralisms "religious."

It should also follow that there is no "establishment of religion." Government would just be furthering one normative pluralism or another. Undoubtedly for historical reasons, government should not be permitted to endorse the normative traditions associated with Christianity or other recognized religions, but government should be permitted to endorse the nondogmatic values that these traditions further.

Dacey might agree with this. But I wonder if he would go the next step. Let us say that the nondogmatic value we want expressed is that the government should obey fundamental norms of right and wrong, should be bound by human rights. If religion is not special, then why not express that value, at least sometimes, through a formula like "one Nation under God"?

If you say that the value can only be expressed through language not associated with traditional

religions, you are not following the equality-based solution that Dacey says he supports, but are favoring one of the normative pluralisms over the others.

If religious freedom is the same as any other kind of freedom, then establishment of religion is the same as any other normative claim by government. Since governments make normative claims all the time, which I believe Dacey supports, there is no reason for a special bar on establishment of religion.

I would not take the argument that far, myself. But it is certainly worth considering. Dacey has emailed me that he wants to respond to my letter, but I have not seen his response yet. Stay tuned.

Title: The Exchange Continues at Secularconscience Blogspot

Date: 2011-08-05T11:16:00.001-04:00

8/5/2011—Keeping my readers abreast of the exchanges on the relationship of religious liberty to establishment of religion. As you may remember, and can see just below, Austin Dacey began this exchange in Religion Dispatches with a claim that there is nothing distinctive about religious liberty as compared to other claims of conscience. Austin refers to this approach as the equality model. (This issue is controversial in legal circles today. The University of Alabama School of Law will be holding a symposium in October concerning, in part, when law should recognize “faith as grounds for exempting someone from the reach of an otherwise valid law”?)

I responded in RD and on the secular conscience blog to the effect that one implication of this claim about liberty is that there is nothing special about endorsement of religion either. That would mean the government would be much freer to utilize religious imagery in the public square.

Naturally, Austin responded to those claims by distinguishing some religious claims from others:

Under this model, certain forms of government aid to religion would be permissible. For example, when federal dollars (along with adequate oversight and regulation) go to Catholic Charities among many recipients, and when there exist adequate secular alternatives to the services they provide, nonadherents are not necessarily marginalized or devalued as a result. The official use of "In God We Trust," by contrast, "sends a message to nonadherents that they are outsiders, not full members of the political community," to use Sandra Day O'Connor's formulation. It is this failure of equal regard, and not the religious nature of the message as such, that arguably makes it unconstitutional.

This is no less true of "In Flying Spaghetti Monster We Trust" and "In Marx We Trust."

This has now led to another response by me on the blog, which I replicate here:

I'm afraid I don't follow Austin's distinctions. An official statement such as "America is a democratic country" "sends a message" to monarchists that they are outsiders. Similarly, "America is a capitalist country" does the same to socialists. For that matter, what would be wrong with a slogan "Marx was right" by a communist country? Politics is not normless. Nor is a nation just a collection of individuals. I read The Secular Conscience as agreeing with the collective, normative nature of politics.

If there is no reason to treat religion differently in terms of liberty of conscience, and I agree with the original point that there is not, the reason must be that religious normative claims are not relevantly different from nonreligious normative claims. That is what Winnifred Sullivan means by "normative pluralism".

But then what is special about religious normative claims by government such that government is uniquely prohibited from making those normative claims? The only reason I see is one of history. I accept that history as requiring government neutrality toward religion, but I do not agree that this means religious imagery may not be used to make nonreligious normative claims. In God We Trust does express the view that reality is trustworthy. The statement that reality is trustworthy is a normative claim that the majority is entitled to make through its government. Freedom just means that the rest of us can disagree.

The full exchange can be found [here](#), along with other voices on the blog.

Title: Downgrading the Downgraders

Date: 2011-08-07T06:32:00.001-04:00

8/7/2011—Although a little outside the usual topics on this blog, I cannot help but comment on the bitter irony of the downgrade in the credit rating of the United States by Standard & Poor's. On the one hand, the decision seems reasonable and inevitable. Not only is the deficit large by historical standards, but it is clear from the debt negotiations that a default might have been allowed to happen. Some Republicans spoke as if default on the obligations to pay interest on debt instruments would not be such a big deal. Clearly some Democrats were outraged that this recklessness worked and were willing to call this bluff by not giving in on cuts to spending without some tax increases. The point is not that anyone wanted a default or that our problems are such that a default is likely—actually our problems are not that difficult to deal with by a combination of cuts and increases in taxes—but that a default could have happened by accident and miscalculation. The rating really should reflect that political reality, which is what S&P said. But on the other hand, there is a bitter irony in the downgrade. S&P is largely responsible for the mess we are in. Here is how the New York Times describes the role of the rating agencies in the mortgage crisis: Standard and Poor's is one of the three central credit rating companies in the United States, along with Moody's and Fitch Ratings. Their job it is to provide an objective analysis of the risk posed to investors by bonds, companies and countries. During the housing boom, the system broke down, as hundreds of billions of dollars of assets later shown to be worthless received high ratings from one of the agencies. A Congressional panel called them "essential cogs in the wheel of financial destruction." Without the false ratings of subprime instruments, the crisis would probably have been manageable and there would be no debt problem today in the US. S&P made a lot of money out of being wrong. No one was fired. No one went to jail. And now we have to listen to their self-righteous preening about getting our house in order. It really makes you sick.

8/11/2011—There is a political side and a legal side and a theological side of Governor Perry’s prayer event this past August 6. On the legal side, Governor Perry has said that no taxpayer money was used to finance the event. Though many people are skeptical of that claim, if true, that pretty much removes the event from Establishment Clause scrutiny. The event would then be a private one rather than the responsibility of the government.

Of course it could be asked whether a prayer event would violate the first amendment even if it were financed with government money. Right now, the federal government sponsors a national day of prayer and the most recent attempt to challenge that was dismissed for lack of standing. I suppose that a particular event rather than a call to national reflection would be different. Clearly, this event was Christian rather than nondenominational and that might be different as well.

A quite different matter is raised by a sitting Governor, and likely Presidential candidate, endorsing Christianity as necessary for the health of the country: “Like all of you, I love this country this deeply. Indeed the only thing you love more, is the living Christ.”

Does it violate what we could call the spirit of the Constitution for a candidate to run for office as a Christian candidate, sort of like the Christian Democratic Parties of Europe? This is the issue I raised in *American Religious Democracy* and I concluded that the answer must be, no. Whatever the Wall of Separation is, it is not a political barrier. The point of politics is to exclude the ideas of others—ideas that those others have a constitutional right to hold. So, a Socialist Party would have an absolute right to organized with only those committed to the abolition of private property, even though under current law, people have a right to own property and to advocate on its behalf. A Christian political party would be similar.

Of more interest to me, are the theological objections to the Evangelical form of Christianity that the Perry event espoused. For example, Sarah Posner writes the following in [Religion Dispatches](#):

“The people who gathered at Reliant Stadium are not just Rick Perry’s spiritual army, raised up, as Perry and others imagine it, in the spirit of Joel 2 to sound an alarm and prepare the people for Judgment Day. They are the ground troops the religious right set out four decades ago to create, and duplicate over generations, for the ongoing culture wars. One part of that army is people like Perry himself, supported by religious right political elites who aimed to cultivate candidates, advocates, and political strategists committed to putting God before government.”

Now, part of Posner’s objection is political—the people at that event oppose abortion, gay marriage and, maybe, government spending programs (that is not quite so clear). Well, so what?

Part of Posner’s objection is cultural. She doesn’t like it when people prostrate themselves seeking forgiveness of sin. Has she never seen enthusiasm at a sporting event?

Part of Posner’s objection is theological. She clearly thinks this is bad religion. But is it? Here I think there are two objections. The first is that this form of Christianity puts God and obedience before politics and government. Martin Luther King, Jr. ought to be enough to put that objection to rest. If you believe in God, of course you put God and obedience before government and politics. That is precisely what Jesus did.

Presumably Posner, if challenged, would grant that. So, the real objection is that this is not a religion of love, unlike that of Jesus and Martin Luther King. It is a religion of war—of us/them of soldiers of God and fighting the heretics.

Here, Posner is on to something. And I’m guessing some people at this event would agree with her. But then I have to ask, isn’t Posner at war as well? This is a criticism that cuts many ways.

Title: The Fourth Circuit Gets a Prayer Decision Wrong

Date: 2011-08-14T10:54:00.000-04:00

8/14/2011—On July 29, 2011, the Fourth Circuit Court of Appeals found that Forsyth County, NC, violated the Establishment Clause of the Constitution by opening County Board of Commissioners meetings with sectarian prayer. This is a bad decision. It was written by Judge J. Harvie Wilkinson III and joined by Judge Barbara Milano Keenan. Judge Paul Niemeyer dissented.

The problem with the decision is that the Court cannot quite explain what the problem is with the Board's policy. Pre-meeting prayer, called "legislative prayer" because of the particular context in the case that approved such prayers, *Marsh v. Chambers* in 1983, is constitutional. What the Board did was send a letter each November to the "religious leader" of each religious congregation in the County. The letter stated that they were eligible to deliver an invocation and could schedule an appointment on a first-come, first-serve basis. The letter emphasized that the prayers were voluntary and according to the dictates of the speaker's conscience and asked that no conversion efforts be made nor disparagement of any other religion.

Predictably, this meant that most prayers were Christian and that Jesus was invoked expressly around 80% of the time. Sometimes there were very specific references to the Christian faith.

The plaintiffs knew what they wanted. They wanted nonsectarian prayer only. That is, they wanted the word Jesus and all other details of the Christian faith banned. That would have been a clear line. But the court did not adopt such a clear line: "Infrequent references to specific deities, standing alone, do not suffice to make out a constitutional case. But legislative prayers that go further—prayers in a particular venue that repeatedly suggest the government has put its weight behind a particular faith—transgress the boundaries of the Establishment Clause. Faith is as deeply important as it is deeply personal, and the government should not appear to suggest that some faiths have it wrong and others got it right."

But why? If the standard is that no Jew or nonbeliever should ever have to hear Jesus' name invoked, then why not say even one such prayer is unconstitutional? The court admits that the Board's policy is neutral with regard to Christianity. In fact, the Board is clear that it is not endorsing any of the prayers at all.

The problem is that the court mistakes offense by observers to prayers with which they do not agree with establishment of religion. There is either a right not to have to hear a sectarian prayer at a public meeting or there is not. Apparently there is no such right. Therefore, the only right should be that the government not endorse Christianity or any other religion. Since the Board was plainly not doing so, what is the violation? Frequency of Christian prayer seems to me irrelevant as long as the government is not encouraging such sectarian prayer in any way.

Title: Check Out James Wood on The Joy of Secularism

Date: 2011-08-17T04:58:00.003-04:00

8/17/2011—Critic at Large James Wood reviews the new book, *The Joy of Secularism*, in *The New Yorker*. Take a look [here](#). Wood shows the difference between secularism and hallowed secularism. Wood begins with the questions of a friend: “How can it be that this world is the result of an accidental big bang? How could there be no design, no metaphysical purpose? Can it be that every life—beginning with my own, my husband’s, my child’s, and spreading outward—is cosmically irrelevant?” He then adds, “atheists are not supposed to have such thoughts.” Wood points out that religious believers entertain the same doubts. The question, why, is not very different from Job’s “Why Lord?” The problem is, and it is the problem this book is supposed to address, that modern humans find it hard to experience spiritual fullness. But the book fails, for reasons Wood identifies and does not identify. One failing of the book is that apparently it is still very much about religion, which should no longer be the point. Another is that Wood identifies Weber’s “enchantment” with spiritual fullness and then writes that it would be dangerous for secularism to try to fulfill this loss. That would make secularism merely upbeat and vacuously “positive,” he writes. The emphasis of the book is on human autonomy, but for various reasons, that heroic humanist story—man asserting his own values—does not work either. Evolutionary biology has robbed humanity of even that myth. Unfortunately, Wood ends his essay with the proposal of Thomas Nagel that “we can approach our absurd lives with irony instead of heroism or despair.” And this is where thoughtful secularists often end up. But I remind the reader of a different promise: “Wouldn’t you like to live your life abundantly? You and your family? Why don’t you?” The promise of hallowed secularism is that the joy and sorrow—and meaning—of religious life is not out of reach simply because we do not believe in the supernatural God.

Title: Ronald Dworkin Fails to Learn His Lesson

Date: 2011-08-20T19:57:00.001-04:00

8/20/2011—Readers of my books are aware that I have been critical of the question that Ronald Dworkin put in his 2006 book, *Is Democracy Possible Here?* Dworkin described America as at a decision point with regard to religion and secularism the public square: Should we be a religious nation, collectively committed to values of faith and worship, but with tolerance for religious minorities including nonbelievers? Or should we be a nation committed to thoroughly secular government but with tolerance and accommodation for people of religious faith? A religious nation that tolerates nonbelief? Or a secular nation that tolerates religion? I have felt that trying to answer a question like this is extremely destructive of community in America. Dworkin is dooming us to years of vicious political struggle. If you want to see what that controversy will be like, just review what happened when NBC left the words “under God” out of the Pledge of Allegiance this past spring, which led to Rep. Todd Akin’s inflammatory charge that “at the heart of liberalism really is a hatred for God.” But Dworkin himself should have come to this conclusion in light of his own comments about the disastrous congressional elections of 2010, when the Republicans captured the House. In a short piece in the *New York Review of Books* in December 2010, Dworkin somewhat discounted the obvious economic reasons for the decline in votes for the Democratic Party. Instead, Dworkin was inclined to credit the feeling of some voters that they “are losing their country.” Now obviously in large part Dworkin believes this has to do with President Obama’s race. But there is also the religious angle: “Obama isn’t one of them in other ways as well: in the period since he was elected it’s become clearer that he is uncomfortable with the tastes, rhetoric, and reflexive religiosity they identify as at the heart of American political culture.” But this is precisely the point. Dworkin has helped set up this problem for liberals. He has insisted that liberals define America as a secular society “tolerating”—a really stupid word for the beliefs of around 80% of the American people—religion. That is what discomferts many ordinary voters. Dworkin fails to connect these dots. If you try, as a nonbeliever, to answer Dworkin’s question, you are going to experience many more elections like that of 2010.

Title: Duquesne University Law School to Probe The Future of the Establishment Clause

Date: 2011-08-25T04:36:00.003-04:00

Here is the announcement of an upcoming program I hope some of you can attend.

***** The
Future of the Establishment Clause in Context: Neutrality, Religion, or Avoidance? The Establishment Clause of the Constitution prohibits Congress from making any law “respecting an establishment of religion”. There is no agreement today on the Supreme Court, or in American law generally, as to what that command means. This disarray has led to intractable controversies over such issues as “one Nation under God” and “In God We Trust”. Government neutrality toward religion is now challenged by some members of a newly assertive, national religious majority. Conversely, a growing number of nonbelievers, especially among the young, reject even generic references to God. Disappointingly, the Supreme Court has responded to these developments by limiting standing to bring Establishment Clause challenges, rather than by a coherent reinterpretation of the text. In conjunction with a symposium issue of The Chicago-Kent Law Review, six scholars will explore the future of the Establishment Clause in terms of this contested context at Duquesne University School of Law on November 3, 2011. They will inquire into the possibilities set forth by the three paths open to us into the future of religion in the public square: a new government neutrality, a new relationship of government and religion and a new understanding of how the Establishment Clause is to be enforced. Participants: Neutrality Bruce Ledewitz, Professor of Law, Duquesne University School of Law Christopher Lund, Assistant Professor of Law, Wayne State University Law School Religion Zachary R. Calo, Assistant Professor of Law, Valparaiso University School of Law Samuel J. Levine, Professor of Law, and Director of the Jewish Law Institute, Touro College Jacob D. Fuchsberg Law Center Justiciability Richard Albert, Assistant Professor of Law, Boston College Law School Mark C. Rahdert, Charles Klein Professor of Law & Government, Temple University Beasley School of Law

Title: Rethinking Secularism or Enjoying It?

Date: 2011-08-26T04:49:00.000-04:00

8/26/2011—Two books are out that illustrate differing approaches to secular life. One is *The Joy of Secularism* (Princeton), which I discussed in a prior post. That book, according to reviews (it's coming to our library), considers how to live a fulfilled life within secularism. But the book assumes that the boundary between secularism and religion is clear, even obvious. The second book, *Rethinking Secularism* (Oxford) is not so sure about this. Secularism is a something, but it is not at all clear what that something is. The bifurcation of the world between the secular and the religious is a question. My earlier book, *Hallowed Secularism*, tried to show that the person who lives outside organized religious life can greatly benefit from the wisdom and teachings of the religions. There is a reason that this is true. There is, after all, only one reality. We live our lives accompanied by beliefs about that reality. We call some of those beliefs religious and some something else, perhaps scientific. But religious life and secular life are both dealing with that one reality. I think it is not clear at all what the boundary is between the secular and the religious. In America we think it is clear because Christianity and Judaism have developed beliefs about a supernatural realm—still of course a claim about reality, about what is real—that cannot be true from a certain scientific perspective. Fair enough. But not all religions share those kinds of beliefs and some Christians and Jews struggle to make sense of them. Conversely, some secularists are materialists, even reductionists. But this worldview cannot even account for consciousness. Not all secularists look at reality in that way. Can a secular life be holy? That is the question. Is it a religious question or a secular one?

Title: God as "a symbolic term"

Date: 2011-08-28T05:52:00.001-04:00

8/28/2011—I'm always running into the criticism that I am redefining terms, especially the word God. So, when I run across usages having nothing to do with law, I gather them up. One such example comes in an article in Zygon by Edward Davis about the geologist Kirtley Fletcher Mather (1888-1978). (September 2011). Mather used the term 'administration of the universe' to suggest a unity and orderliness about nature and human life. Here is an example: "That the administration of the universe is going forward according to a consistent plan is a conclusion reached alike by the man of religion and the man of science." Mather clearly did not mean that a being like a supernatural creator God lay behind the universe. He observed, however, that "evolution has resulted in progress toward the attainment of 'the good, the true, and the beautiful'". He sometimes used the word God, but he meant "a symbolic term used to designate those aspects of the administration of the universe that affect the spiritual life and well being of mankind....a creative and regulatory power operating within the natural order." Mather was criticized during his life for using the term God in this way. But he responded that people use the word atom even though atom used to mean "a unit of eternal matter" and no longer does. Mather is a perfect example to show that much criticism by atheists of religious language is aesthetic and philosophical rather than, as usually claimed, "rational" or "empirical". Mather's way of understanding the universe is not inconsistent with science. But it retains great symbolic richness and hopefulness. Mather's universe is a good home for human beings. We have no need to give that up.

Title: How To Make Our Religion Divisions Worse

Date: 2011-08-31T05:07:00.002-04:00

8/31/2011—A story from the New York Times (here) tells about a dispute at a National cemetery in Houston. According to the story, the new cemetery director began enforcing a 2007 directive that prohibits honor guards at funerals, especially veteran funerals, from reading recitations, including religious ones, unless the family requests them. The policy infuriated veteran groups who have been conducting essentially religious internments, with references to God and faith. They have now sued, of course. At most national cemeteries, this matter is worked out quietly. So, there is some political stuff going on here. That said, this boils down to a matter of identity politics. No one disputes that this is a matter in which families of the deceased should decide. The fight is about the default position. If the family says nothing, what should happen? So there is much more common ground than at first appears. And an inquiry to the family will settle the matter. And notice something else. The veteran groups who conduct these internments are asked to do so by the families. They do not intrude themselves and they volunteer. In a way, this dispute represents what happens when, in accordance with the question by Ronald Dworkin, we try to decide whether we are a religious country tolerating nonbelief, or a secular country tolerating religion. Every time you try to decide that, you are going to get pointless rancor.

Title: Hilary Putnam Misinterprets the Oven of Aknai Story

Date: 2011-09-02T04:32:00.004-04:00

9/2/2011—In the Talmud, there is a story that has seemingly become the most important story for American legal and political commentators—the story of the Oven of Aknai at Baba Mezia 59a. Here is how the noted American philosopher Hilary Putnam tells the story in his book, *Jewish Philosophy as a Guide To Life*: “in a dispute with some of the other members of the group at Jabne, Eliezer ben Hyrcanys called for a series of miracles (which then occurred) including a ‘heavenly voice’ (bat kol) to prove that he was right and *lost the debate in spite of the heavenly voice and the miracles*. ‘We pay no heed to a heavenly voice,’ the rabbis told God, ‘for you have already written in the Torah at Mount Sinai, ‘to incline after a multitude.’ The Talmud goes on to give us God’s reaction. Rabbi Nathan, it relates, ‘happening upon’ the prophet Elijah, asked what God had done at that hour. ‘He smiled,’ Elijah said, ‘and said: My children have vanquished me, my children have vanquished me!’”

Putnam concludes that in this “crucial” event, Judaism took a turn away from the numinous, from the direct experience of the divine: “Human autonomy was henceforth to have a voice in determining what the Divine Commandment means. ...[T]he position of the traditional Jew is one of feeling a profound experience of being Commanded by a God of whom she or he has *not* had a numinous experience. The ‘trace’ of God’s presence is the tradition that testifies to the Commandment and the interpretive community that continues to work out what it means.”

The misinterpretation here is the omission of the Talmud’s radical critique of the position of the majority. Here is what actually happened next, which American commentators and liberal Jews generally, leave out. (taken from a law review article I wrote in 2003). The sages were not content with carrying the day against Eliezer on just the point of law concerning the oven. They declare unclean “all” the objects upon which Eliezer had given his judgment of clean and then burn these objects. After the burning, the sages vote to excommunicate Eliezer.

As the sages feared, the excommunication of Eliezer sparks disorder in the natural world. Disasters of all sorts occur—including the destruction of a third of the olive, wheat and barley crops, which would have been a catastrophe indeed in that economy.

In the midst of these events, a huge wave threatens to swamp the boat of Rabban Gamliel, the head of the Academy. Gamliel addresses God directly, the same God who had been “defeated” by the sages. Gamliel says that the action against Eliezer was not taken out of ego, but to avoid factionalism—“so that strife may not multiply in Israel.” The sea then subsides.

All the same, Gamliel eventually is killed by heaven's hand because of the treatment of Eliezer. Ima Shalom, who is both Gamliel's sister and also Eliezer's wife, continually distracts Eliezer from prayer after his excommunication, because of her fear of the possible consequences of Eliezer's prayer. But one day she fails to prevent Eliezer's from praying and Gamliel immediately dies. Thus, concludes the text, referring to an earlier Talmudic discussion, wounded feelings have the greatest access to heaven.

The Talmud does not celebrate the hubris of human reason trumpeting its autonomy from God. The Talmud both warns against it and considers it an inevitable temptation. Jewish commentators who ignore this do the tradition, and by extension, the Enlightenment and secular thought generally, no favor.

Title: Happy Labor Day

Date: 2011-09-05T05:26:00.002-04:00

9/5/2011—Labor Day is the perfect time to reflect on American secularism's greatest failure—it's lack of interest in economics. Our religions, especially Christianity and Islam, have consistently critiqued the vices of greed and the pursuit of material gain at the expense of others. They have spoken on behalf of the needs of the poor and for justice on behalf of workers. Jurgen Habermas has noted this capacity of religion, to speak a vocabulary of need on behalf of the vulnerable. In contrast, secularism has shown no interest in the poor or in issues of justice. Ironically, it's interests tend to be spiritual—whether people believe in God and what attitude they take toward scientific inquiry. I can't claim to know the entire literature, but I am familiar with a lot of what the New Atheists have written and I cannot remember anything about economic organization. In a time of ruthless exploitation of the Earth leading to economic gain for many but outsize gains for a very few, along with the growing power of money to distort political life, we desperately need a new understanding of the market. It is mind boggling that the American response to the financial crisis caused by a failure to regulate private greed and dishonesty has been a new round of distrust of government. It is disheartening that powerful corporations have succeeded in confusing the public about the threat of global warming. (It is not conservative religious leaders by and large who are leading that effort, but purely secular CEO's). It is discouraging that public policy ignores the growing share of wealth owned by the wealthiest and the absence of growth by up to 80% of the public. What ever happened to the American dream, not of hitting it rich, but of growing prosperity of a working and middle class? It's time for secularism to reconsider its head games and get its hands dirty with the material needs of ordinary people. Secularism needs to take a lesson from Pope Benedict—the greatest critic of capitalism among all the leaders of the planet. Where is Marx when you need him?

Title: Check Out Religion Dispatches on Church, State, and the Crisis in American Secularism

Date: 2011-09-08T04:53:00.002-04:00

9/8/2011--No Need to Choose Between Religious and Secular
AmericaBy Bruce LedewitzIn the concluding volume of his
trilogy on religion and secularism, the author argues that
there is no chasm between religious belief and non-belief;
certainly not in terms of politics and not even in personal
terms. Interview [here](#).

9/10/2011—There is a disconnect in America about who public workers are. Are they the firefighter heroes of 9/11, going into burning buildings that everyone else is running out, or are they the “parasites” you see referred to all over the Internet? Well, public workers are paid with taxpayer dollars. So, of course, that means they are paid by you and me. On the other hand, everyone is paid by you and me. The people who work for Ford got paid when I bought a Focus. And I am paid by the tuition dollars of my students in law school. So, we are all parasites in the literal sense. That just means we depend on, and interact with, each other. The reason some people don't like public employees is the same reason they don't like government in general—there is no choice about the paying. My students can just not go to law school. I can buy a GM car. But I am stuck with paying the taxes that go to public workers. Taxes are theft, they say, which means that government workers who receive them are criminals. This view is based on an illusion of individual choice. And it has little to do with government actually. It is the same illusion that is being argued against Obamacare—that of the rugged individual who lives on his own, without health insurance. There is no such person. A few weeks ago, National Review (maybe online) had a review about a book touting the difference in responsiveness between the private sector and government. Where do your frustrations come from? Dealing with bureaucratic government agencies or with efficient businesses? But think about this. Have you ever tried to speak with a human being at Norton, in the private sector, new tech computer security field? It is about the same as dealing with the office of unemployment compensation. This illusion of individualism goes all the way back to Enlightenment social contract theory. It roots in the image of the pre-political human being. But the solitary human being has never existed. Even the individual human family has never existed. Our ancestors were social animals—apes. Before there were human beings, there were proto-human groups. As Daniel Quinn in the book *Ishmael* might have put it, we became human in human interactions. So, on this Anniversary, let's celebrate public workers and the work they do every day. They don't all risk their lives for us—although many do, especially when you count our soldiers, who are public workers, too—but they all do work for us. And the work they do is usually dirty work one way or another. (I'm thinking of the amazingly good trash pickup in Pittsburgh). And even where it is a good job with good pay, it is generally earned with honest and hard work. Because the fundamental thing about public workers is that they are not “them”. They are “us”.

Title: What Does a Resurgent Marxism Look Like?

Date: 2011-09-15T04:07:00.005-04:00

9/15/2011--Readers of this blog have seen the interview in Religion Dispatches magazine concerning my new book, Church, State, and the Crisis in American Secularism. (interview noted below, 9/8/2011).

In that interview, I wrote that "I hope to be able one day to write a serious book challenging the assumptions of capitalism on behalf of a resurgent Marxism." So, I have been pondering what a resurgent Marxism might be like.

I am not a scientific materialist. Marx was. Yet there is a kind of religious sensibility about Marx, as evidenced in his call "From each according to his gifts, to each according to his needs." (At least this is the popular version).

This kind of generosity is very reminiscent of the New Testament. It calls to mind the parable of the workers in the Vineyard from the Gospel of Matthew, 20: 1-16:

"For the kingdom of heaven is like unto a man that is an householder, which went out early in the morning to hire labourers into his vineyard. And when he had agreed with the labourers for a penny a day, he sent them into his vineyard. And he went out about the third hour, and saw others standing idle in the marketplace, And said unto them; Go ye also into the vineyard, and whatsoever is right I will give you. And they went their way. Again he went out about the sixth and ninth hour, and did likewise. And about the eleventh hour he went out, and found others standing idle, and saith unto them, Why stand ye here all the day idle? They say unto him, Because no man hath hired us. He saith unto them, Go ye also into the vineyard; and whatsoever is right, that shall ye receive. So when even was come, the lord of the vineyard saith unto his steward, Call the labourers, and give them their hire, beginning from the last unto the first. And when they came that were hired about the eleventh hour, they received every man a penny. But when the first came, they supposed that they should have received more; and they likewise received every man a penny. And when they had received it, they murmured against the goodman of the house, Saying, These last have wrought but one hour, and thou hast made them equal unto us, which have borne the burden and heat of the day. But he answered one of them, and said, Friend, I do thee no wrong: didst not thou agree with me for a penny? Take that thine is, and go thy way: I will give unto this last, even as unto thee. Is it not lawful for me to do what I will with mine own? Is thine eye evil, because I am good? So the last shall be first, and the first last: for many be called, but few chosen."

From Wikipedia: "The word translated "penny" in the King James Version of this parable is the denarius, a silver coin which was the usual day's wage for a laborer; the story depends on the audience agreeing that this is a fair day's wage. The hours here are measured starting at about 6:00 AM, so that the eleventh hour is between about 4:00 and 5:00 PM. The workers are poor men working as temporary farmhands during the harvest season, and the employer realises that they would all need a full day's pay to feed their families. The payment at evening follows Old Testament guidelines."

This parable is often interpreted to apply to "religious" matters, such as death-bed conversions. But we need to think of it more literally. Capitalism encourages us to think of ourselves as earning our income by our merits and as constantly competing with everyone else.

But Jesus is teaching us to think of ourselves as receiving enough and not needing to lessen what is given to others to have "justice". The Parable is also reminiscent of the Parable of the Prodigal Son in Luke 15:11-32.

The beginning point of a new Marxism might well be that economics must account for scarcity, but must begin in gratitude.

Title: No Clergy at the 9/11 Ceremony

Date: 2011-09-19T16:02:00.001-04:00

9/9/19/2011—Perhaps I did not follow the stories very well, but nothing very much seems to have been said about the absence of clergy at the 9/11 commemoration in New York City. There were some complaints, of course, but I expected a media firestorm. My neutrality discussion partner, Christopher Lund, who will be speaking at the Duquesne Law School Future of the Establishment Clause Symposium on November 3, would no doubt say that the absence of outrage shows that the best thing for social peace is to not have prayers at public events. On the other hand, it turned out that there were scripture readings even though there were no clergy. I don't know why this decision went down so easily. But I have a dark suspicion. I think the people who might otherwise have complained understood that this action was taken to keep representatives of the Muslim community from participating. And I believe that keeping Islam out was the actual reason for the ban. So what we may have here is not greater openness to the plurality of American belief and nonbelief, but maybe just the opposite.

Title: Unions and the Separation of Church and State

Date: 2011-09-22T03:12:00.003-04:00

9/22/2011—Peter Laarman, executive director of Progressive Christians Uniting, a network of activist individuals and congregations headquartered in Los Angeles and former labor organizer, wrote a piece on September 18 about religion and labor. ("Case Against Church-State Separation From Unlikely Source") (hyperlink unavailable: go to http://www.religiondispatches.org/archive/politics/5129/case_against_church-state_separation_from_unlikely_source/) Laarman was discussing an article from the Journal Democracy entitled "The Church of Labor" written by Lew Daly, the author of *God's Economy*, a 2009 book that argued in favor of the faith-based services initiative of President George Bush. Daly has bigger fish to fry this time. His argument is that separation of church and state is connected to a predominantly Protestant ethos of individualism that is fundamentally hostile to all collective action, including unions. According to Laarman, Daly presents a "critique of the intertwining of free-market liberalism/Social Darwinism and ur-Protestant ideas about individual responsibility... .Daly's basic idea is that rights based liberalism is a part of this individualist worldview. Unions, on the other hand, are founded out of a different view of the world—one that is based in human solidarity. To this point, Laarman is in basic sympathy with Daly. He parts company over the connection Daly draws to the separation of church and state. In Daly's prescription, legal and financial support for churches is also supportive of other associations, such as unions. Here is a quote from Daly's article: "In corporatist thinking, natural associations—including the family, religious bodies, occupational guilds and trade unions, and various other communal structures—should be legally enfranchised in their corporate nature, empowered as both subjects and creators of public policy, and protected as vital instruments of the common good." I can see why Laarman is skeptical about support for churches leading to support for unions. Daly is describing a proposed cultural change and such changes do not proceed in a linear, cause and effect way. You might well end up eviscerating the separation of church and state and doing nothing at all for unions. For me, Daly's thinking and Laarman's response raise two issues. First, just why is it that American Protestantism is so individualistic? Perhaps the greatest 20th century Protestant thinker, Karl Barth, was a Christian socialist and that has been a powerful movement in European history. The second issue is cultural. Capitalism seems to require and foster individualism. This individualism may be destroying the notion of a common good and enshrining selfishness. How is that to be changed?

Title: Justice Scalia at Duquesne Law School

Date: 2011-09-25T05:30:00.001-04:00

9/25/2011—Justice Scalia came to Duquesne Law School yesterday as the speaker at our centennial celebration. He was just as advertised: witty, charming, ideologically determined to root out all the influences of his “old friend” William Brennan from American constitutional law.

I had the same reaction to Justice Scalia’s claimed textualism yesterday that I have always had: it is not a method of interpretation, but an ideological form of politics masquerading as a method of interpretation. Therefore, it is not applied consistently, but selectively.

Why is inconsistency so damaging to Justice Scalia’s position? Because, as he would be the first to admit, a method of interpretation that one chooses on some occasions without clarity of rule about when it is to be invoked is no improvement on the nakedly normative to interpretation that Brennan practiced. It is not a method that removes normative judgment from judging.

Actually, Justice Scalia has already admitted that he is making normative judgments. Once, somewhere in his non-judicial writings, he called himself a minimal textualist who probably would not follow through if the results were sufficiently damaging to the Republic. This marks him as a sane judge, but also as a practitioner of the living constitution school. (Justice Scalia also looks to tradition since the Constitution or a provision was adopted, which is also a direct contradiction of textualism and something he refused to do with regard to guns in *Heller*, but I am making a different attack here).

Here are four examples from the caselaw of what I consider inconsistencies in method. To interpret “establishment” in the Establishment Clause, Justice Scalia looks to practices extant at the time of adoption of the first amendment. They worshipped God, therefore so can we. But they either did or certainly would have if the matter had come up, punished burning the American flag. So burning the flag cannot be free speech. But Justice Scalia held that it was protected.

Two: Equal Protection did not protect women from the discriminations of the common law—married women could not own property for example. Now of course it does. Justice Scalia admits that it does.

What has happened in these two examples is that we have come to see that the conceptions the founders had of speech and equality were faulty, so we have improved on them. That is the living constitution at work. Why not say that their conception of cruelty was faulty as well and find the death penalty unconstitutional? It would be the same “method”. (I could have made the same point about so-called regulatory takings, which I believe were unknown to the Constitution).

My third example is more technical. Justice Scalia interprets standing narrowly and makes no pretense of linking that conception of standing to any form of history or text. His view of standing is purely a political theory of limits on the judiciary. (and maybe a good one) The common law allowed much broader conceptions of who could sue and I doubt the modern, narrow approach can be justified.

Finally, Citizens United and the notion that corporations have constitutional rights. Here Justice Scalia has tried to say two things about history and text: that nothing in history allows the government to regulate the speech of persons in an association, including the corporate form. Second, that the text of the first amendment points to speech not speakers.

To be sure I am fair, here is how Wikipedia puts the Scalia dissent: Justice Scalia joined the opinion of the Court, but wrote a separate concurrence, joined by Justice Alito and by Justice Thomas in part. Scalia addressed Justice Stevens's dissent, specifically with regard to the notion that the court's decision was not supported by the original understanding of the First Amendment. Scalia stated that Stevens dissent was "in splendid isolation from the text of the First Amendment. It never shows why 'the freedom of speech' that was the right of Englishmen did not include the freedom to speak in association with other individuals, including association in the corporate form." He further considered the dissent's exploration of the Framers' views about the "role of corporations in society" to be misleading, and even if valid, irrelevant to the text. Scalia principally argued that the first amendment was written in "terms of speech, not speakers" and that "Its text offers no foothold for excluding any category of speaker."

As to the first point, Scalia's history is wrong: at the time of the adoption of the Constitution and for a good while after, corporations were considered creatures of the state and could not have had rights against it. As to the second point, I scorn it because it should lead the Court to strike down political spending limits on China in American Presidential campaigns. Such a holding will never happen and Scalia knows it, so he can take his position in complete inconsistent irresponsibility.

More important than the failure of Scalia to follow textualism or originalism is the reason why he does not. His writing about corporations is instructive. He does not want the government to be able to silence the most trenchant critics of state policies, which are often corporations. This is a perfect example of the living constitution. The world has changed and if we are to keep our Republic, we now need corporations to counter government hegemony.

Maybe this is true. We could argue it. But it is not his claimed method. It is political philosophy. Justice Scalia: the new Bill Brennan.

Title: The End of Religious Legal Theory

Date: 2011-09-28T19:15:00.003-04:00

9/28/2011--the organizers of the third annual religious legal theory conference have graciously accepted my proposed paper for a panel presentation. I say graciously because the premise of my paper is the possibility that the category of religious legal theory is now outdated--either too broad if we really mean the God of the Bible or too narrow because belief can no longer be helpfully contrasted with nonbelief. We are all secularists or all religious now. Here is the paper proposal:

Paper Proposal: Does the Evolution of Religion Undermine Religious Legal Theory or Fulfill It?

Religious Legal Theory is premised upon an intelligible distinction between what is religious and what is not religious. But in a society in which ever larger numbers of people, especially among the young, claim to be "spiritual but not religious", this distinction has become problematic. This paper will explore the implications of this new context for law and religion.

Some legal theorists, notably Christopher Eisgruber and Lawrence Sager, have elaborated equality models that would have the effect of transforming religious legal exemptions into exemptions based on "conscience" and otherwise argue against any special status for religion. Defenders of religion, for example Steven Smith, have opposed this tendency, wishing to maintain a special place for religious freedom.

Both sides have overlooked the inconsistency of equality approaches with the existing, special Establishment Clause prohibitions on the use by government of religious imagery. In the Establishment context, the sides tend to exchange their positions, with secularists arguing the special power/danger of religion and religious theorists arguing for equal treatment for religious imagery in government speech.

What is missing from this debate is a fresh consideration of the healthy possibilities that might emerge from ceasing to consider religion a category separate from other aspects of reality. The separation of church and state in a secular sense is a Christian invention. Other religious traditions do not conceptualize political life this way and, even within Christianity, voices like Dietrich Bonhoeffer and Raimon Panikkar have emphasized the sacred quality of this world without relying on a separate, religious realm.

As America becomes both more religiously diverse and more secular, it should become easier to treat traditional monotheistic claims as referring to this world, without sacrificing their supernatural meaning for monotheistic religious believers. One advantage of mixing religion and political life in this way is that secular thinking would not be as cut off from traditional religious insight as it is today and might thus develop stronger resources against materialism, relativism and despair. There might even be "a discovery of a hidden meaning of the present" available to all. On that day, religious legal theory would no longer be a species of special pleading for an interest group but would again become a source of spiritual sustenance for believers and nonbelievers alike.

Title: The Problem of Nonpreferentialism

Date: 2011-10-01T05:59:00.002-04:00

10/1/2011—Professor Patrick Garry is coming to Duquesne Law School on October 5 to speak to the Federalist Society on church/state issues. Professor Garry is the author of *Wrestling With God: The Courts' Tortuous Treatment of Religion*. He argues that the Constitution is pro-religion, not pro-secularism and that the Establishment Clause protects religious institutions from government interference; it does not protect nonbelievers from the establishment of religion in a general sense.

This position is called nonpreferentialism. It was well enunciated in American law in the dissent by then-Justice Rehnquist in *Wallace v. Jaffree* in 1985, the case prohibiting public schools from promoting silent prayer. According to Justice Rehnquist, the Establishment Clause was “designed to prohibit the establishment of a national religion, and perhaps to prevent discrimination among sects . . . [not as] requiring neutrality on the part of government between religion and irreligion.” I wrote the following about that dissent in 2009 in an article in *Saint Mary’s Law Journal*.

“This position--that government is permitted under the Establishment Clause to aid and endorse religion as against irreligion but is not permitted to discriminate among religions--is known as nonpreferentialism. It is a position with serious support in the legal academy, albeit with more critics. Yet, even critics of nonpreferentialism seem resigned that the Court will move toward nonpreferentialism in the future.”

But I suggested in that article that this might not actually happen. Nonpreferentialism does not work in a genuinely pluralistic society.

“It turns out, however, that *Jaffree* was an anomalous case that masked the inherent contradiction within nonpreferentialism. As critics have noted, in practice nonpreferentialism cannot resolve the tension between endorsing religion over nonreligion and not discriminating among religions. Unfortunately, preference for religion over non-religion usually leads to discrimination among religions.”

“The dilemma can be seen in Justice Scalia's dissent in *McCreary County*. [a case striking down a Ten Commandments display] Based on a fairly one-sided reading of American history, Justice Scalia argued in favor of nonpreferentialism in much the same way that Justice Rehnquist had done in *Jaffree*. As a kind of summary, Justice Scalia described the ‘principle that the government cannot favor religion over irreligion’ as ‘demonstrably false.’

Immediately after that assertion, though, Justice Scalia was forced to confront the criticism that upholding a publicly owned Ten Commandments display ‘violates the principle that the government may not favor one religion over another.’ Obviously, this was a more significant challenge in the context of a biblical symbol like the Ten Commandments than of the silent prayer at issue in *Jaffree*. There are obviously religions that do not revere the Ten Commandments.

In responding to the religious discrimination challenge, Justice Scalia stated that the nondiscrimination principle is binding in some contexts but that it ‘necessarily applies in a more limited sense to public acknowledgment of the Creator.’ Even though some religions do not acknowledge such a divine Creator, ‘it is entirely clear from our Nation’s historical practices that the Establishment Clause permits this disregard of polytheists and believers in unconcerned deities, just as it permits the disregard of devout atheists.’

Lest the reader imagine that Justice Scalia could not have meant what he seemed to be saying and that he surely meant to reinterpret ‘God’ language more broadly...Justice Scalia emphasized that he did indeed mean to privilege essentially the God of the Bible and, to be fair, maybe the God of the Qur’an, as well. Justice Scalia responded to the criticism in the majority opinion that his understanding of God was too small by observing:

‘This reaction would be more comprehensible if the Court could suggest what other God (in the singular, and with a capital G) there is, other than “the God of monotheism.” This is not necessarily the Christian God (though if it were, one would expect Christ regularly to be invoked, which He is not); but it is inescapably the God of monotheism.’

...Justice Scalia put a candid stake in the heart of nonpreferentialism. According to Justice Scalia’s approach, the words ‘under God’ in the Pledge of Allegiance would not be understood as including all believers, let alone nonbelievers. Seven million American non-monotheistic religious believers would be expressly excluded from our ‘One nation.’ Whatever this position is, it is certainly not nonpreferentialism. Justice Scalia is proposing a quite different resolution of the Establishment Clause crisis, and his proposed resolution demonstrates the failure of nonpreferentialism.”

Douglas Laycock once wrote that “any answer to religious questions is religion.” And what are religious questions—I suppose they revolve around the mystery of existence. Ludwig Wittgenstein once called addressing this, living seriously.

Professor Garry rightly sees this kind of argument as usually manifesting cultural hostility toward religion—because religion is everything, it is nothing. But I see it differently. I see instead that we are mostly all religious. The traditional religions, then, are advanced in dealing with the perennial questions of human existence. They are in a position to teach the rest of us.

Title: How Does Forgiveness of Sins Work?

Date: 2011-10-06T04:00:00.002-04:00

10/6/2011—Today is eve of Kol Nidre (the eve of the eve of Yom Kippur). During the ten days between Rosh Hashanah and Yom Kippur, the Jew is supposed to engage in an intense activity of self-examination. Here is an example from an email I received from Alissa Flores at Beyt Tikun, which is a Jewish Renewal Congregation associated with Tikun publisher Rabbi Michael Lerner: “Yom Kippur gives us the tremendous blessing and opportunity to contemplate death before it occurs-- to even rehearse our deaths by wearing white, by fasting, by abstaining from material pleasures--so that it doesn't hit us by surprise. It gives us the opportunity—once a year-- to tie up the loose ends, to finish unfinished business, to say our ‘I'm sorry's’, ‘I forgive you's’ and ‘I love you's’, which, when we come to our death beds, we'd wished we'd said. And it gives us the opportunity to reflect honestly on our lives—to contemplate if we are where we want to be and if not, what we'd like to change. It's an opportunity for a wake-up call without having to go through the kind of catastrophic event that often wakes people up.” The apparatus of Yom Kippur—fasting, prayer, silence—is helpful in achieving self-examination, of waking up as Alissa puts it. But the holiday is also pretty useless. As the liturgy notes, every year the same sins reemerge to be noted. This raises two issues that are perhaps related. How is self-examination practiced? And how does forgiveness of sin happen? The problem of self-examination is that I am the same smug person who committed the sin in the first place. If I recognize it now, I probably recognized it at the time. And if I didn't then, I probably won't now. The problem of forgiveness is that there is no person/god to forgive me, so what is all this about? And yet forgiveness of sin happens as I know personally. And the myth of a god who forgives is a crucial step in forgiveness. If I believe in confession and the possibility of forgiveness, then forgiveness is possible. This fact tells us something about reality. For the link between self-examination and forgiveness of sin is what Heidegger called *gelassenheit*. When I trust in God, I am free to let all my defenses down. This helps me see myself warts and all. And I am free to trust God to forgive me, no matter what. This frees me to self-insight I could not otherwise achieve. I empty myself of pretension before God. Is this kind of trust in reality possible without the God myth? I think so, but maybe only if I have been trained in that myth or an alternative myth first. Certainly secular life needs forgiveness.

Title: Why Does There Need to be a Ministerial Exception?

Date: 2011-10-09T06:33:00.004-04:00

10/9/2011—For years, the lower courts have applied the so-called ministerial exception to allow churches and other religious groups to avoid application of some anti-discrimination laws. So, for example, a sex discrimination challenge by a woman who wanted to become a Catholic Priest would fail. The courts have done this, however, in direct contradiction to a 1990 case, *Employment Division v. Smith*, in which the Supreme Court, in an opinion by Justice Scalia, of all people, held that generally applicable laws can never violate the Free Exercise Clause. The relationship between the ministerial exception and *Smith* has never been clear. So, it was mildly amusing to note Justice Scalia's surprise at oral argument last week when the United States urged the Court to jettison the notion of a ministerial exception altogether and go to a balancing test instead, in *Hosanna-Tabor v. EEOC*, in which a woman charged that she was wrongfully dismissed from a teaching position at a Lutheran school. I believe that the teacher claimed she was dismissed because of a disability and the school claimed it was because she did not accept church teaching. Although denying that there was any discrimination, the church claims that anti-discrimination laws should not apply in this situation. The odd thing about all this is the question of just where the ministerial exception comes from. The obvious answer is the Free Exercise Clause of the First Amendment, although Patrick Garry, the author of *Wrestling With God*, might say that it comes from the Establishment Clause (he argues that free exercise protects individual liberty, establishment protects institutional autonomy). But *Smith* says that the Free Exercise Clause has no application since anti-discrimination laws are generally applicable. It is time for the Court to get out of the common law constitutionalism it is doing here and get back to the text, which is a strange thing to have to say to Justice Scalia. Time to overrule *Smith* and get the Free Exercise Clause back into the Constitution.

Title: Are Things Getting Worse or Better?

Date: 2011-10-13T20:51:00.003-04:00

10/13/2011—Since I am a critic of things—whether it is what I call the crisis in secularism in my book, or my call for a new look at Marx—it is good to be reminded of just how much progress there actually has been in human affairs over the past few centuries. The book is *The Better Angels of Our Nature: Why Violence Has Declined*, by Steven Pinker, professor of psychology at Harvard. The book was reviewed in the *New York Times* on Sunday, October 9, by the well-known professor of bioethics at Princeton, Peter Singer. As Singer puts it, “[t]he central thesis of [the book] is that our era is less violent, less cruel and more peaceful than any previous period of human existence.” According to Singer, to whom this argument does not come easily, Pinker makes a careful and persuasive case. Not as clear, even to Pinker, are two questions that are more important than how we are doing right now. First, if Pinker’s claims are accurate, how and why did they happen? A lot of it has to do with the Enlightenment, according to Pinker, which is important, considering how much bad press the Enlightenment has been getting. Second, will these positive trends continue? Pinker thinks they will, but he is not certain about that and admits that they may not. But I want to raise a different issue, without having read the book. Just judging by the review—and I have a lot of confidence in the thoroughness and integrity of Peter Singer—there does not seem to be much in the book about the current environmental crisis. Yes, there may be less physical violence, but if we cannot manage to avoid ruining the Earth’s capacity to sustain human life well, that decline will not mean much. What if the same Enlightenment thinking that has given us so much, is also at the heart of our inability to appreciate the common good that the earth represents? After all, the Enlightenment gave us, or helped give us, individualism and it is individualism that is hindering us from seeing this collective threat.

Title: The Religious Exemption

Date: 2011-10-19T20:34:00.003-04:00

10/19/2011—Stanley Fish wrote an op-ed column for the New York Times on Monday, entitled “Is Religion About the Law?” I’m not sure what point he really meant to make. Certainly the field is beset by difficulty, as he noted, but matters are not as problematic as he suggests. In the first place, the headline is a classic case of putting the rabbit in the hat before taking it out. If there is a religious exemption to the reach of otherwise applicable law, such as the anti-discrimination law at issue in *Hosanna-Tabor v EEOC*, then the exemption is the law. Therefore, an exempted religion would not be above the law, but squarely within it. Thus, it is misleading to say the courts lack authority to look at church decisions. They may or may not but it is because the law so provides. The second point is related. There may once have been an issue about separate sovereigns here, but no longer. If law recognizes a religious exemption, then it is only because the courts and the people have so decided. The jurisdiction of the modern state is not at issue. If you doubt it, try claiming refuge from the criminal law in a church, as once you could have done. What Fish leaves out is the possibility of pretext. In HT, the teacher was allegedly fired for bringing suit against the school. Now if anyone else has brought suit without being fired, a jury would be justified in finding that the religious justification was not offered in good faith. Has anyone sued anyone other than the church without being terminated? Such evidence might not always be available, but it often will be and when it is, the tension of secular jurisdiction over a church is lessened. The Catholic Church is clearly sincere when it refuses all women the right to be priests. No one doubts it. But what if, tomorrow, one Bishop refused one particular male who was disabled the right to be a priest? The Bishop says it is not because the man is disabled but because Catholic doctrine does not allow left-handed men to become priests. Yet there are left-handed priests now. Some people would say that the courts cannot examine pretext even here, but I think the ministerial exemption requires sincerity and that there is limited authority in the courts to ensure it.

Title: Standing on God/Pleading With God

Date: 2011-10-22T05:21:00.001-04:00

10/22/2011--I am in Chicago at the Loyola Law School Constitutional Law Colloquium. I gave a talk on the relationship between standing and pleading rules in Establishment Clause cases. I criticized the Supreme Court for its increasing refusal to hear Establishment Clause cases on the ground that plaintiffs lack standing. At a certain point, no one will be able to bring Establishment Clause cases, even against the very abuses of government endorsement of religion that inspired the Establishment Clause in the first place. I suggested that this is happening because of the difficulty of actually resolving the dilemma the Court is facing over the meaning of the Establishment Clause. The Court promised government neutrality toward religion and now perhaps wants to change that, but cannot muster a majority for any different approach. I suggested that the answer is first a new understanding of the Establishment Clause that recognized the rich meaning of religious images, including their secular meaning. For readers of this blog, the substantive proposal is familiar from my new book, *Church, State, and the Crisis in American Secularism*, which I got to show around here at the Colloquium. I added a technical twist yesterday, which I must admit will be of interest primarily to lawyers. If the meaning of the Establishment Clause changes, the nature of church/state legal challenges must change as well. Right now, a plaintiff can bring a purely legal challenge every time the government utilizes religious imagery. The ease with which this can be done perhaps explains the turn to standing to dismiss such cases. But if religious images are sometimes permitted, and if the Supreme Court can explain coherently just when that is, the rules of bringing the challenges will change as well. The relevant case here is *Bell Atlantic Corp. v. Twombly*, which is a 2007 antitrust case that required pleading more facts before a claim can be brought. Under my proposal, plaintiffs would have to plead facts to show that a particular use of a religious image is an endorsement of religion and not a nonreligious use. Some of the time that will be possible—as in the prominent and unique Christmas display that was mounted in the Allegheny County courthouse. But usually no such showing will be made because the government claims, plausibly, that the religious image in question is promoting nonreligious as well as religious values and there are no reasons to doubt that. Such cases would then be dismissed.

Title: Why Any Change in the Establishment Clause?

Date: 2011-10-29T08:14:00.001-04:00

10/29/2011—On Thursday, November 3, six legal scholars will gather at Duquesne University School of Law to debate the future of the Establishment Clause. Two speakers, Bruce Ledewitz, the author of this blog, and Christopher Lund, Assistant Professor of Law, Wayne State University Law School, will discuss possible futures for government neutrality toward religion. Two speakers, Samuel J. Levine, Professor of Law, and Director of the Jewish Law Institute, Touro College Jacob D. Fuchsberg Law Center and Zachary R. Calo, Associate Professor of Law, Valparaiso University School of Law, will address the future relationship of religion and government. Finally, Mark C. Rahdert, Charles Klein Professor of Law & Government, Temple University Beasley School of Law and Richard Albert, Assistant Professor of Law, Boston College Law School will consider the Supreme Court's latest turn standing law to keep Establishment Clause cases out of court. There is great interest in this event. Duquesne has had to close registration because we were receiving too many reservations for the space. There seems to be a feeling that we are on the verge of a momentous change in the way the courts decide issues of church and state. Although all six scholars share the view, one way or another, that change in Establishment Clause jurisprudence is coming, I have begun to wonder just why I feel that way. Why can't the Supreme Court just keep muddling through, lurching from one decision to the next? Obviously, that could be the case. Nevertheless, there are several reasons to assume that some kind of change is imminent. For one thing, the Court seems to be closely divided between very different views, neither of which has managed to gain a coherent majority. Three Justices—Sotomayor, Kagan, and Ginsburg—seem ready to cut back on government religious expression. Four Justices—Scalia, Thomas, Alito and Chief Justice Roberts—seem ready to allow government to engage in more religious expression. Justices Kennedy and Breyer are harder to identify. If the latter Justices made up their minds, change would happen. Second, the context seems unstable. Religion is politically dominant, but not so culturally. The culture seems increasingly hostile to religion or at least not mindful of it. But this is not so in the political realm. Can that continue to be the case? Finally, there is a feeling among law professors that the only thing keeping the Court from moving is that no new approach seems to work. Therefore, law professors line up with their proposals.

Title: The Establishment Clause in Shambles

Date: 2011-11-02T10:46:00.002-04:00

11/2/2011-- [As a continuation of Saturday's blog entry]
Just this past Monday, Justice Clarence Thomas, dissenting from the denial of certiorari review in a case involving the public display of crosses, [Utah Highway Patrol Organization v. American Atheists, Inc., ___ S.Ct. ___ (2011)] stated that "Establishment Clause jurisprudence [is] in shambles." No one is going to dispute that statement. Not only is there uncertainty in doctrine in this field, but Supreme Court is buffeted by sociological and political trends, in which a growing American secularism seems eternally in conflict with an ever more assertive American religious commitment. It is not clear how social peace is ever going to be achieved in this highly contested area. It is against this background that six scholars will gather tomorrow at Duquesne University School of Law to discuss the future of the Establishment Clause. I wish I could invite you all to be there, but we are actually full-up. (We should have picked a larger room). I will be blogging after the fact and for a few days afterward about the program and what I learned. Roughly speaking, there are three divergent paths that the Supreme Court might take into the future. The Court might reinvigorate the dominant model of the past fifty years, variously referred to as government neutrality or separation. Or the Court might rethink that commitment and look anew at religion in the public square. A third possibility is one the Court has been utilizing recently—applying standing and justiciability standards in such a way as to preclude some plaintiffs from being heard in court. For the names and backgrounds of the speakers, see the entry immediately below.

Title: What is the Origin of the Separation of Church and State?

Date: 2011-11-05T19:05:00.001-04:00

11/5/2011—In a sense, the separation of church and state goes back to the Two Cities of Augustine or even Jesus' admonition to render to Caesar what belongs to Caesar and to God what belongs to God (except that Jesus probably thought everything belonged to God). But the modern doctrine of separation probably goes back to the Reformation. As the story is told by James Reston, Jr. in his book, *Defenders of the Faith*, the Lutheran movement created the Augsburg Confession in June, 1530 in preparation for the Diet of Augsburg. The last article of the Confession was the separation of civil authority from church authority—"The power of the Church and the civil power must not be confounded." Pretty clearly this article represented more than a theological commitment. There was a good chance that the Emperor, Charles V, would use military power to crush the Protestant movement and reimpose the authority of the Roman Catholic Church in Germany. The appeal to the separation of church and state was an attempt to preempt such an action. It is true that such a mixing was felt to threaten the purity of the Church. But more important, the power of the sword should not be used to impose theological uniformity. The separation of church and state was, from the start, a protection of conscience.

Title: Do Atheists Use the Word God?

Date: 2011-11-09T05:15:00.000-05:00

11/9/2011—Chris Lund raised a very good point during the Establishment Clause Symposium at Duquesne last week. He was objecting to my suggestions that God is a word of rich meaning that nonbelievers can understand and relate to on nonreligious terms—that one Nation under God, for example, can mean a nation subject to standards of right and wrong (might does not make right). Chris said, “I don’t know any atheists who use the word God”. I responded as I usually do, with examples. Readers of this blog have seen numerous examples, perhaps most recently—August 28, 2011, below—a blog post about the American Geologist Kinsley Fletcher Mather, who could represent an entire generation of religious naturalists. For such persons, the word God had a rich resonance suggesting regularity and benignity in reality. Einstein is perhaps the best example of this phenomenon, since he was utterly rational, not at all religious, and meant something natural when he said, or was translated as saying, “God does not play dice with the universe.” I believe in German he said, Die Alte, “the old one” but apparently that is a term for God in German. This is a crucial point to me because it points to the possibility of shared meaning, shared vocabulary, and thus common ground between believers and nonbelievers. But I wonder if Chris might be right on another level. Just as in religious naturalism, there are today nonbelievers like me who do not shy away from the word God, while there are other nonbelievers (perhaps like Chris, but I don’t know if he is a nonbeliever) who would never use the term. And their underlying commitments and understandings of reality might, or might not, differ. This difference needs to be explored. The question is, what do we mean when we refuse to use the word God? But the exploration has to take place in a secular context so there can be no misunderstanding. I need a metaphorical room of only nonbelievers who can then explore the limits of religious vocabulary—this shows the need for a secular caucus in law and beyond.

Title: Veterans Day 2011

Date: 2011-11-11T05:11:00.001-05:00

11/11/2011—A Somber Veterans Day to my readers. This culture is odd when it comes to veterans. We seem either to ignore them or to sentimentalize them. There are two reasons for this. One is that, unlike the aftermath of WWII, when most people were either veterans or were the loved ones of veterans, veterans today are a special group. Therefore they can be used as support for certain kinds of issues or policies. So, Veterans Day can be a day to support American foreign policy or lobby for increased benefits for combat. In earlier times, when no group could readily “claim” veteran status for its own purposes, it was a day to reflect on the meaning of our country and the tragedy of human violence and terror. The other reason is a related one. Because most of us are not veterans, we have little connection to war. So, it is difficult to relate in a serious way to the experience of war. This is a serious problem because it allows the culture to treat war as unreal. It is this lack of wartime experience that blithely allows torture of prisoners and drone killing and promotes unrealistic nationalism. The real experience of war is why Senator John McCain, a war hero, is a sometime critic of current policies. Perhaps it takes an Eisenhower to remind us that we cannot win a land war in Asia. But for all that, I sense that people are grateful for the sacrifices we impose on our small group of warriors. I know I am. And I do grieve for the deaths of young people that we no longer publicly recognize for fear that it will undermine support for our wars. So, I am at least going to try to thank a veteran today. Whatever we may think of American policy in the world, it would take a real optimist to think the world would be better off without our military.

11/16/2011—The religious exemption front is heating up. Word is that Belmont Abbey College, a religious institution, is suing the Federal Government over restrictions on the religious exemption currently contained in Obamacare (that plans must offer contraception and sterilization with a current religious exemption deemed by the college to be too narrow). On a related front, the Department of Health and Human Services did not award a new contract to treat victims of sex trafficking to the U.S. Conference of Catholic Bishops under the National Human Trafficking Victim Assistance Program, because the USCCB refused to refer victims it treated for reproductive health care, including abortion and contraceptives. As for law, there is some statutory obligation by the government to offer religious exemptions, but they have probably not been violated. Nor is there any right to government funding for faith-based services if the religious organization cannot for religious reasons offer all the services the government wants to contract for. But the issues here are not really legal. These stories are heating up in part because of the partisan atmosphere in Washington. Democrats and secularists generally are aware of the Catholic Church's increasingly partisan stance. There is a perception that the Church has allowed its concerns over abortion to be used by purely political opponents of Obamacare. But beyond that current political context, there are many secularists who have had it with religious exemptions. As far as they are concerned, if churches want to be employers, they should have to live with the law like everyone else. Many of their employees are not members of their faith and even those who are apparently would like the benefits the law specifies. But let's step back a bit. On a practical level, religious institutions have to be accommodated on Obamacare because there is no mandate to offer healthcare. Religious institutions apparently can opt out and offer money equivalents instead and their employees (like me) would then shop in the insurance exchanges, undoubtedly much worse off than at present. In addition, religious organizations offer terrific services under government contract and always have. The taxpayers usually get more bang for the buck with faith-based services. On a deeper level, "conscience" exemptions don't just favor religious believers. Since the Vietnam era draft cases, religious exemptions have been (or can be in the future) read as conscience clauses ("religion or its equivalent"). My concern is that such exemptions may prove unworkable in the future. But I certainly favor them in theory and I'm surprised that more secularists do not see the benefit in such conscience clauses. Of course, for me, this is all part of finding common-ground between believers and non-believers.

Title: The Duquesne Secular Society

Date: 2011-11-18T05:19:00.003-05:00

11/18/2011—Today's Tribune Review continues a story that I first read about in the Duquesne Duke. The Student Government Association denied formal recognition to a group calling itself the Duquesne Secular Society, a decision the University supported. The reason given by a University spokesperson was that "formally recognizing a student group whose main purpose is opposition to belief in God is not aligned with our mission". The reason actually seemed reasonable to me, but that did not seem like a fair description of such a group. I wrote to Nick Shadowen and suggested that if the group made it clear that its concern is not with religious believers but with students who are not believers and that the group's purpose is to explore the resources of depth and meaning for people who are not religious believers, I thought the University would be happy to recognize the group. Nick wrote back that the purpose of the group is "open discussion on the existence of god". So, the university did not mischaracterize the purpose of the group. I'm sorry that once again, secularists think they are the truth and religion is the problem. Maybe we secularists should look at ourselves for a change. [Readers of this blog will be aware that I have edited it to remove a reference to an email exchange between Nick Shadowen and me that he felt both misrepresented the purposes of the group and made public an exchange that he considered private. I apologize for that and unlike the rest of the Internet, I'm pretty sure that this quiet corner will allow matters to disappear. I have also removed his comment in case it was prompted by the offending quotations. Of course Mr. Shadowen is free to comment again and I hope he will. I hope he does not consider his comment on the purpose of the group to be private and in any event it is consistent with public statements in the media. That said, I repeat my main point. The purpose and thrust of all these secular organizations, including the one at Duquesne, is, as some secularists see it, to expose the fallacies of religion to the light of reason. When called on it, these secularists insist they are not attacking religion, but all they mean is that the discussion should be fair and open. There will not be a genuine secular society until religion is not in its mind at all. There will not be a secular society until its focus is entirely on the nature and potential of a secular society.]

Title: None

Date: 2011-11-23T06:18:00.002-05:00

Obama to Side With the Bishops

11/23/2011—That is how Sarah Posner put the matter yesterday in Religion Dispatches. ([Story here](#)). Posner's report is remarkably harsh considering that what is at stake is coverage for contraceptive and abortion procedures that are not that expensive and are not likely to deter anyone from, for example, having an abortion. It is also a little surprising given that the opposition to these procedures is a matter of long-standing Catholic Church doctrine and is not being hyped to oppose Obamacare.

Posner, who is clearly speaking for many on these points, makes three basic claims. First, these institutions are not churches, which are already exempt, but "nominally religious employers" could claim the exemption. Second, non-Catholics, and liberal Catholics, are being bound by the religious beliefs of others. Finally, caving in to the Bishops sets a dangerous precedent for specious claims of religious liberty. Posner also observes that Democrats for Life, which made a statement about the intentions of President Obama, doesn't really represent anybody.

Let's ask first what is at stake here. Should the government require people to take actions that violate religious conscience? I assumed that the answer for everybody was no, not if we can help it. But now that I have read Posner, I am not sure. I now have the impression that Posner so hates either religion or the Catholic Church in particular that the answer to that question is no. (I would like to see broader, not narrower exemptions—not based on religion at all, but on conscience generally—even though that would raise difficult sincerity issues).

Who is Posner to call an institution nominally religious? The institution has to claim the exemption, so it presumably views itself as religious. This is not a context in which people who don't care about religion are trying to gain some economic advantage, so it's not a question of anyone lying.

But what about the non-Catholics and liberal Catholics who are being bound by the religious beliefs of others? But we're not bound. I say we because I am a secularist teaching at a Catholic University. This is fortunately not a matter of conscience versus conscience. No one feels they have to have funding for these services mandated as a matter of their religion. They just don't feel that using contraception or having an abortion violates their religion.

But the employer does feel that offering these services violates the religion of the institution. Those who work there already work pursuant to a religious calendar they do not believe in. We have chosen to work for an institution who religious beliefs, or in the case of Catholics for choice, whose interpretations of those beliefs, we do not share. But our rights are not infringed unless you believe we have a right to force others to act in violation of their beliefs—a very peculiar belief indeed.

There is no precedent set here in terms of other, weaker claims of religious liberty—such as faith based services. These religious institutions are afraid of being required to pay for medical services that violate their religious beliefs. Isn't it disingenuous on the one hand to deny Republican claims that Obamacare expands abortion funding and then to oppose exempting religious institutions from a requirement that they actually pay for abortions for their employees?

And as for the snide observation that Democrats for Life does not represent anyone, Posner and others should not be so quick to take comfort in that. There are liberals who oppose abortion. I like to think I am one. Those are votes Democrats may need next November.

Title: Happy Secular Thanksgiving

Date: 2011-11-24T07:47:00.000-05:00

11/24/2011—We all have blessings to give thanks for. And if we disagree about the nature of the giver, or even if the word giver makes any sense, we certainly cannot disagree about “gift” itself. We did not invent ourselves and we are not responsible for all that we are and have. If, as I hope, we are surrounded by love, we should give thanks, for we are not the agents of our good fortune. And if this is not a matter of good fortune, but of the graciousness of reality itself, then we should give thanks for that mystery as well.

Title: Death for the Hallowed Secularist

Date: 2011-11-28T14:49:00.001-05:00

11/28/2011—If I remember correctly, Pope Benedict recently stated that modern people are in despair over death. Obviously, he was suggesting that the promise of Christian life could be an antidote to this despair. I am on my way to the funeral of my father, Nathan Ledewitz. Even though he lived to ripe age of 94, and lived a good life according to his lights, his death inevitably reminds me of the decline and death of all of us. What can be said by a secularist about death? All living beings die. For that matter, all reality is transient. Even the sun will die. This universe too as far as we know. It is part of the rhythm of being. Why does the Pope think this is a matter for despair? Why should my little ego survive and live forever? It cannot be simply a religious distaste for death. For much of its history, Judaism had no notion of life after death in any form. Abraham was not promised anything but that his descendants would be a blessing after his death. In other words, the ongoing blessing of life was crucial, not Abraham himself. All we can do is live the best life we can. And we can be grateful for life itself, which is a mysterious blessing we did nothing to merit.

Title: The Rituals of Mourning

Date: 2011-12-02T05:06:00.000-05:00

12/22011—My father was buried on Tuesday in a graveside ceremony conducted according to orthodox Jewish rites. It was tremendously satisfying. The ritual gave order and seriousness that felt right for the occasion. One practice stays with me—the mourners take turns putting earth back onto the coffin in the ground until it is covered.

The French atheist, Andre Comte-Sponville, writes in his marvelous book, *The Little Book of Atheist Spirituality*, “A human being can’t be buried like an animal or burned like a log.” That is exactly right. And that is what the funeral did for me—it marked the occasion.

Public ceremonies are like that, too and the question of ceremony is one that the law has been quite wooden about—treating all such practices as either religious or not and not identifying satisfying public ritual.

But if one is secular, where do such ceremonies come from? I spoke at my old synagogue Wednesday night, after I had returned. A man asked, after I left Judaism, where did I end up? I told him frankly, nowhere. But that I was trying to live this nowhere to be faithful to secularism itself—to see what there is there.

The man was surprised. He was polite but unimpressed. Then you have no authority, he said. You are a rudderless ship. Why should anyone listen to you?

I felt he had described the situation very well. For a secularist, it is not a matter of authority. Reality is the authority and all human institutions that interpret reality are just that—human inventions. That includes religion but it includes everything else as well. This is not a comfortable place, but it is ours, or at least those for whom this is what they see.

I told the man, it is not a matter of authority but persuasion for those in the same boat.

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Title: Why Do We Mourn?

Date: 2011-12-05T08:30:00.002-05:00

12/5/2011—I'm in Florida looking at assets, thinking about my father and reading Leon Wieseltier's 1998 book, *Kaddish*. Wieseltier is an orthodox raised, somewhat skeptical thinker, about my age. When his father died, he strictly followed the Jewish mourning custom of saying the mourner's prayer, the *Kaddish*, three times a day in the company of ten Jews—only men in most of these synagogues. I have mixed feelings about this book. The problem that it raises at its surface is whether or not to follow a very time-consuming tradition. This is a peculiarly Jewish issue, or at least an issue for certain Jews. It no longer makes sense to me. It's like asking whether remodeling your house is spiritually enriching because it takes up all your time. On the other hand, Wieseltier follows the path of his consciousness, which I am told is a blank spot for me. But couldn't I just follow the path of my consciousness for a year? Of course the *Kaddish* ritual adds Jewish religious philosophy to his thinking. But so does reading his book. Here is an example of such philosophy. At the beginning of the book, Wieseltier quotes the Jewish Rabbi and thinker Nahmanides—"the religious genius of Spanish Jewry in the thirteenth century." Nahmanides's first answer to the question of why we mourn is this: "It was the destiny of man to live forever, but as a consequence of that ancient sin, human beings have gone down to the slaughter." Death separates us from our true nature. Wieseltier rejects this statement: it has little to do with the mourning of real people. But I think he is wrong about this. In my father's case, no one could be sad that he finally died because he was frustrated and suffering. What I feel sad about is his decline, not his death. And so mortality is the issue. Alone among animals, humans think about themselves. And I think Nahmanides is right that we think about ourselves living forever in some form or other. This is why religion is so plausible. And even if we know this is impossible, we still think of ourselves as participating in the circle of life, which is just another way of living forever. (And sometimes we write books under the illusion that a piece of us will thus live forever).

Title: "But what if history has no logos?"

Date: 2011-12-10T06:06:00.002-05:00

12/10/2011—I have been trying to show my fellow secularists, and religious believers, that there is common ground between us. This feeling people have that religion vs no religion is a chasm is quite false. But what could this common ground be? I admit that there is a big difference between believing in God and an after life and not believing it. But I don't mean by common ground that believers and nonbelievers really believe the same things. I mean that believers and nonbelievers may be oriented toward reality in similar ways. Here is a story that illustrates the point. It is the story of the disintegration of the neo-Kantian school of philosophy in Germany after WWI. But it is actually our story today, since we are heirs of this disaster. Prior to WWI, the basic Enlightenment view in Germany was one of progress and potential in human life and history. The slaughter of the war made this view untenable. (The Civil War may have had something of a similar effect in the U.S.) I am reading an intellectual biography of Ernst Cassirer, entitled *The Last Philosopher of Culture*. Cassirer was heir to the Marburg School of neo-Kantianism associated with Hermann Cohen, who died in 1918. It was this school's tradition in the person of Cassirer that lost out in the 1920's to positivism on the one hand and what the biographer, Edward Skidelsky, calls "irrationalism" on the other (he means Heidegger and I don't think this is at all a fair view of him). Intellectually, this helped pave the way for the Nazis. The Marburg school "displayed a quintessentially Hegelian confidence in the rationality and benevolence of the historical process". (37) And that is true of most people in America today, indeed most people in the world. The Weimar Republic came to grief because it could not answer the question—"But what if history has no logos? What if it is just the record of the crimes, follies, and vices of mankind?" I want to bring this question to the Center for Inquiry. When we say, "In God We Trust" we are not just recognizing the historical commitment of monotheism—though we are doing that, which is the objection. We are also stating a commitment to the rationality and benevolence of the historical process. And if we don't want to go the way of Weimar, that may be a commitment worth pondering. And I think worth making.

Title: The McConnell-Feldman Debate Over Religious Liberty

Date: 2011-12-13T05:03:00.002-05:00

12/13/2011—I have just finished watching the 1 1/2 hour debate between Michael McConnell and Noah Feldman that was staged by the Berkley Center at Georgetown University under the heading, “What’s So Special About Religious Freedom?” McConnell argued that religion is special and should be given unique protections in law, while Feldman argued that religion is not different in any important way from other forms of conscience, specifically philosophical commitments, and that similar protections should be extended to them. The debate was strangely theoretical. Feldman was not arguing that all these commitments are “religions” and should be protected under free exercise and/or restricted under establishment. And the people involved would often not want to make that claim since they are often secular in their orientation. So, protections for them would come, as they have been, from other portions of the first amendment, for example freedom of association. The point of the debate was whether, in theory, religion is different. Yet for all the theory, we never heard what religion was. There was some dancing around that question, for instance there was discussion about whether Antigone was about a religious claim or a philosophical claim. But Feldman did not want to say that philosophy was religion, only that philosophy has just as good a claim for protection as does religion. Missing from the debate was any relationship between philosophy and religion. It has often been said that Christianity was Plato for the masses, but you would never have known that. There is something important in this debate, but I have not yet heard what it is. I am going to suggest that the commonality between religion and philosophy is in commitments to meaning in human life. But that would take this discussion in a different direction.

Title: Christopher Hitchens R.I.P.

Date: 2011-12-16T21:44:00.001-05:00

12/16/2011—I was very sorry to read today of the death of Christopher Hitchens from cancer. Hitchens had been suffering from the disease for some time and he faced his death with grace and courage. Well, why not? He was familiar with the classic sources and undoubtedly resigned himself to death years ago. Hitchens was no fool. But his writing about religion was simplistic. And his error was apparent in the title of his most famous book—God is not great: how religion poisons everything. Hitchens, though he assuredly knew better, confused God with religion. Many crimes are committed in the name of God. But they are committed by people. And the name of the very human associations that commit these crimes—along with all the good—is “religion”. Religions are not God. Even the concept of religion in general, whatever that is, is not God. God is God. If I remember correctly, Hitchens had little to say about all the different meanings of the word, God. He was interested only in impossible dogmas. He needed God to be as implausible as possible because only then could he debunk religion. But what if God is not implausible at all? The philosopher Ernst Cassirer, in the early Twentieth century, wrote about the new logic of Bertrand Russell. Cassirer argued that there must be a connection between math and experience. Only when we understand that the same fundamental syntheses on which math is based also govern empirical science will we be able “to speak of a firm lawful order behind the appearances... .” What if God is the firm moral order behind the appearances? The irony is that Hitchens himself testified to his belief in such an ordering in many ways in his life. I’m just sorry he spent his life enjoying controversy rather than showing similarities.

Title: Religious Revival in China

Date: 2011-12-20T05:05:00.001-05:00

12/20/2011—Secularists need to take a look at Ian Johnson's review of several books describing religious rebirth in China in the December 22, 2011 issue of the New York Review of Books. (China Gets Religion!) The review makes two surprising points: first, that traditional religion had been almost eradicated in China after the 1911 and Communist revolutions and that this had led to "a nation without an accepted code of moral obligations" that has had serious and negative effects on personal and social relations. Second, that the religious revival has had the effect of promoting challenges to the authoritarian regime—for example, Christians dominate the weiquan, the human rights lawyers who take on politically charged cases. Ian Johnson writes about religion and culture and he is certainly basically sympathetic to religion, although not always so. But he is primarily a reporter and I doubt that his observations are mere fantasy. The two basic points—that lack of religion harmed Chinese society and that the resurgence of religion is politically liberating—challenges American critiques of religion. The member of the Center for Inquiry, where I will be speaking next month, would assume that the absence of religion in a society would be liberating and politically progressive. Certainly, they would not accept such a formulation for our own society. Maybe we need a new, more nuanced, account of religion.

Title: The Waning of Christian Culture

Date: 2011-12-24T06:32:00.001-05:00

12/24/2011—At this most holy time of the year, with the end of the year and the darkest days and nights, and the potential birth of new hope, I note the waning of Christian culture, at least in my neighborhood and experience. I have never heard so little of the Christian message at Christmas time. It was a shock to read the Classic Peanuts reference to the Gospel of Luke yesterday (Linus at a Christmas pageant).

We are entering a new world, it seems to me. And I was inspired to write a one-page work in progress below:

The End of Religion

The end of religion is a question rather than a statement. But I want to put the matter provocatively. The end of religion has three aspects: the secularization thesis and its implications for secularism; the special place of religion in constitutional law and discourse; and, treating the word “end” as ambiguous, the goal or telos of religion, especially as it relates to religious legal theory.

I don't intend to debate the secularization thesis. The evidence of the decline in the power of the Christian myth to serve as the ordering principle of the West seems so strong to me as to be beyond debate. (I see it anecdotally in the classic Peanuts comic strip that still appear—when Linus quotes the Gospel of Luke in a Christmas pageant, Charles Schulz is invoking a practice of the 1950's and 1960's—no current mainstream comic strip would do the same.) Nevertheless, I am less concerned to convince anyone of what the future will bring, as to consider the implications of this decline. The relativism of American secularism and the ethical rootlessness of Chinese society, from which religion has been effectively banished until recently, are warning signs that secularism needs to think toward a new myth, one that takes the mystery of existence and the search for meaning as its focus. Naturalism, materialism and empiricism are not sufficient. Nor is capitalism. Nor is technology. Nor is Rawlsian liberalism, for society must be able to assert some substantive truths.

The end of religion also refers to the controversy in constitutional law about the uniqueness of religion, recently exemplified in the debate at Georgetown between Michael McConnell and Noah Feldman. Technically, this debate is pointless. Religion will remain special because the term is in the text of the Constitution, both to protect its practice and to forbid its establishment. What the debate demonstrates, however, is that the search for meaning, as Martha Nussbaum emphasizes, is a human and not a specialized, religious endeavor. But the implications of that insight are not, as defenders of religion fear, to denigrate religion, but to show its unique power. Religion is the human tradition that molds the human search for meaning into ways of life. Healthy ways of life. Where else but religion could a secularist look for aid and models in the task of forging a new myth?

But the key question about the end of religion is religion's goal and responsibility. Attention to the protection of the believer and the continuation of the protected status of religion threaten to turn religious legal theory into a special interest group. While the religious traditions must minister to their own flocks, their primary end today is to follow the example of Dietrich Bonhoeffer, leading the world into a future without God. My fear is that we shall have to enter that future without the aid of the religious traditions, in which case it will be a dark future indeed.

Title: Enlisting the Help of Sam Harris

Date: 2011-12-28T05:32:00.001-05:00

12/28/2011—I've been reading Sam Harris' book, *The Moral Landscape: How Science Can Determine Human Values*, in which Harris defends the objectivity of values against moral relativism. He is clearly an ally in my work. I called moral relativism the crisis in American Secularism in my book, *Church, State, and the Crisis in American Secularism*. Harris would agree.

Here is how he puts the general issue: "Many people believe that something in the last few centuries of intellectual progress prevents us from speaking in terms of 'moral truth' and, therefore, from making cross-cultural moral judgments—or moral judgments at all. Having discussed this subject in a variety of public forums, I have heard from literally thousands of highly educated men and women that morality is a myth, that statements about human values are without truth conditions (and are, therefore, nonsensical), and that concepts like well-being and misery are so poorly defined, or so susceptible to personal whim and cultural influence, that it is impossible to know anything about them."

So, what is the problem? Harris has a bug about religion. Religious believers are not moral relativists, so one would think, as I do, that they are allies in this fight. But they are not for Harris because they take morality from sources other than their own experience, informed by science Harris claims generally, but he admits that informed by rational thought would be enough.

Harris just won't compare good religion with good nonreligion. All religions I know emphasize experience and encourage the believer to look to the signs of the times, as Jesus says. In Christianity this is called general revelation and it is available to all human beings. In fact, the scientific tradition arose out of the religious commitment that God made the world for humans to understand and in understanding the world we would better know God.

The basic orientation of religion to truth creates a problem for Harris when he quotes Einstein. Harris tries to debunk the Einstein quote—"science without religion is lame, religion without science is blind." Harris points out in a footnote that this does not mean Einstein believed in God or accepted unjustified belief. True enough. But just look at the quote Harris is forced to use: "[S]cience can only be created by those who are thoroughly imbued with the aspiration toward truth and understanding. This source of feeling...springs from the sphere of religion."

Harris has the nerve to call this aspiration "the primitive urge to understand the universe." But here he exposes his elitism. Religion is the urge to understand the universe. As is science. I doubt science will be better at it. We shall see.

Harris does not examine his own biases. For example, Harris makes several slighting references to stem cell research opposition and abortion to show how unreasonable religion, and the Catholic Church in particular, are. But he admits that the potential as well as actual well-being of conscious creatures is his definition of morality. He does not do crude addition to compare killing one person to the well-being of the many. So, why is it irrational to oppose the killing of human beings at the earliest stages of their lives? Harris' answer is that these beings are not yet "sentient and suffering human beings". But of course by this argument it is less immoral to kill babies than adults, which is ridiculous, as Harris would probably admit (or would admit except for its consequences to his argument).

The word "potential" here is everything. Once a human being is created, that being is valuable as human. Yes, I may have to kill it, as in the unfortunate living undeveloped twin inside a healthy baby that Harris discusses on page 171. But Harris is stuck in principle promoting fetal organ farms. (I don't mean he admits this). This is all the result of Harris' bias against religion. It keeps him from honestly developing his own thinking.

12/31/2011—The Illinois adoption controversy illustrates an important difference between accommodating religion and discriminating against taxpayers. Religious accommodation occurs when generally applicable laws contain religious exemptions. The classic case of accommodation occurred during Prohibition when religious use of wine was permitted. Accommodation is no longer usually constitutionally required under *Employment Division v. Smith* (1990)—although that may change with the decision of a pending case involving the ministerial exception—but accommodation is still widely practiced and is often required by statute. Accommodation, such as not forcing doctors to perform abortions, enhance religious liberty. But what Catholic Charities in Illinois is seeking is in principle quite different. When President George W. Bush expanded faith-based programming, he did so with the clear understanding that religious groups that took government money to provide services, must serve all clients without religious distinction. There was no accommodation in the original program, nor could there be since the point was to allow religious groups to participate in public programs on an equal basis. In contrast, Catholic Charities takes public money to provide adoption services but wants to exclude same-sex couples who have a legal right to adopt. This is a case of taking taxpayer money to discriminate against taxpayers. In any context other than gay rights, this idea would be instantly rejected. Imagine if a church that opposed interracial marriage wanted public money to provide adoption services only to same race marriages. The idea would be rejected, of course. Undoubtedly the Church here is sincere and in general no one wants to exclude religious organizations from providing public services (or at least I don't). But the exception for religious conscience being considered by the Illinois legislature—"to allow faith-based agencies like Catholic Charities to decline to provide foster care and adoption services to applicants who 'would constitute a violation of the organization's sincerely held religious beliefs' and refer them to other agencies" (quoting a story on Huff Post)—would allow all kinds of discrimination that the public would find repugnant and should not have to pay for.



POSTS:
2012

Title: Jacques Berlinerblau's anti-Religion List

Date: 2012-01-03T04:10:00.002-05:00

1/3/2012—Jacques Berlinerblau, Director of the Program for Jewish Civilization at Georgetown, has listed on the Washington Post <http://www.blogger.com/img/blank.gif> On Faith blog, his list of Top 10 religion stories to watch. Two of these stories illustrate the needlessly adversarial tendencies of the academic left when it comes to religion. The first is his praise of the decision of New York Mayor Michael Bloomberg not to allow clergy to speak at the tenth commemoration of the 9/11 attacks. What is so wonderful about that? Why is it not like saying he kept away poets? No wonder religious people believe that religion is under attack in America. Berlinerblau will not be satisfied until all religious images and references are banned in the public square. Aside from that, it is likely that this principled stand that Berlinerblau admired had nothing to do with the separation of church and state and was simple prejudice to keep a Muslim cleric from speaking at the event. Berlinerblau is praising bigotry. Number six on Berlinerblau is the failure of the effort by Bronx Household of Faith, from holding its Sunday services at Public School 15, where it has worshiped since 2002. The denial of a community group to use public property available to everyone else merely because the group is religious and its proposed use is religious is probably unconstitutional. We shall see. But whether it is unconstitutional or not, this is discrimination against the private expression of religion. What business is it of the government what use I intend to make of public property when it is available to all? What's next? Government censorship of unpopular messages at public parks? The use was on Sunday when any community group is permitted to use the space. If you don't want religion, don't open up government property to everyone else.

Title: I Have a Soft Spot for Rick Santorum

Date: 2012-01-06T06:58:00.001-05:00

1/6/2012—Although I have been critical of Rick Santorum over the years—see 9/11/2010 below—I have a soft spot for him because of his commitment to fighting global poverty. While he was in the Senate, I don't know of any campaign to help Africa that did not have his full support. Unlike other Republican candidates for President, Santorum is not a capitalist first. And he is obviously sincere in his commitment to the poor, whatever differences one may have over tactics. I don't know the specifics of his platform, but this is not a man who will lightly cut welfare and food stamps. This is important to note because I am increasingly wondering about the commitment of the left to issues of economic justice, the occupy Wall Street movement notwithstanding. Ever since Bill Clinton ended welfare as we know it to the resounding silence on the left, the question arises whether the left is anything more than abortion and gay rights (for purposes of disclosure, I am pro-life and pro-gay marriage). This comes to mind because of the hatchet job just done on Santorum by Sarah Posner, senior editor at Religion Dispatches (Santorum from the Religious Angle). The story skewers Santorum for all the usual reasons, but unconscionably for a story ostensibly about Santorum and religion, does not even mention his religious commitment to fighting poverty. Is poverty just not important to the left anymore unless we are talking about increasing taxes on the wealthy? The story is unfair in other ways too. Santorum believes that secularism leads to a loss of social morale and low birth rates in Europe. All Posner does is make fun of that claim. But it is an empirical claim and is either correct or incorrect or a matter of interpretation. Loss of social morale does lead to low birth rates and Europe's non-Muslim population is shrinking. It is not something to make fun of but discuss. I am beginning to wonder about Posner and by extension Religion Dispatches, for which I have written quite happily in the past. Can they any longer write reasonably about conservative religion or is it now all polemic?

Title: The Ministerial Exception Must be Put on New Foundations

Date: 2012-01-10T04:50:00.003-05:00

1/10/2012—I will be reporting a number of insights from the annual meeting of the AALS, the Association of American Law Schools, in Washington D.C. One important one for purposes of this blog is the future of the ministerial exception, being considered now by the Supreme Court in the employment discrimination case, *Hosanna-Tabor v. EEOC*.

Traditionally, churches enjoy a great amount of autonomy in their internal decision-making. The most obvious example is that while a private employer could not usually limit an employment class to one gender, the Roman Catholic Church can do exactly that in permitting only males to become Priests. Gender and other discrimination laws do not apply.

The question is, why is this the case? *Hosanna-Tabor* is a disability retaliation case, but the facts do not matter until one decides whether there even is a ministerial exception. Nothing in statutory law exempts churches and while people might have assumed that churches are protected by the free exercise clause of the Constitution, since 1990, the Supreme Court has held that there is no free exercise protection against generally applicable laws, that is, laws not aimed at the practice of religion.

The AALS held a panel on this topic on Saturday. Two law professors who filed an amicus brief in the case (Leslie Griffin and Caroline Corbin) argued that there is no ministerial exception. Churches are protected only to the extent that any other organization would be—either by the right of association enjoyed by all expressive groups or by employment law itself, which allows discrimination where the job qualifications require it.

On the other hand, one professor (Robert Tuttle) argued a relatively narrow ground for the ministerial exception based on an Establishment Clause prohibition against the government, including the courts, deciding religious questions.

But the most widely held position was argued by the remaining two professors (Christopher Lund, the moderator, and Douglas Laycock) that church autonomy is grounded in the inherent and traditional separation of the realm of the state from the realm of the church.

Undoubtedly, this last position is what most religious groups want the Court to say in the case. But there are two problems with it. First, this kind of basic separation has implications for government involvement with religion that churches usually oppose. If the church realm is separate and government must stay out, then church groups cannot have it both ways in the sense of faith-based providers receiving public funds or government putting up Ten Commandments displays. Of course this is also why staunch secular separationists might favor the separate realm approach—Lund advocates a fairly strict separation as does Laycock in the area of government use of religious imagery.

But the other problem is that we as a society do not practice the separate realm approach. As Tuttle pointed out, if a church simply refused to pay its minister her contractual salary, even on the basis that on reflection the past sermons had not been truly Christian, the minister would certainly be able to sue in an ordinary contract case. And, of course, we all know that the government's criminal law now reaches into the churches, as it did not during the Middle Ages with the tradition of refuge from the law in the church itself.

Where this will end up I'm not at all sure. The Supreme Court is not going to strike down the ministerial exception and those who wish it to would be unhappy if it did. The result would then be a general weakening of employment discrimination law as courts bent over backward to protect church autonomy. On the other hand, the Middle Age are over.

1/12/2012—There was something odd about the wonderful panel at the AALS Convention that debated the ministerial exception that the Supreme Court has now unanimously upheld. Two of the panelists arguing in favor of the exception, Chris Lund and Douglas Laycock, would not be considered pro-religion in the conventional sense—both believe for example that the Pledge of Allegiance is in principle unconstitutional. Their support of the ministerial exception could not really be based on history or the need for an unfettered religious presence in society. So, upon what was their support ultimately based—what underlying worldview was being urged? (It also struck me as odd that two supporters of employee rights would want to see the ministerial exception overturned, since the predictable consequence would have been to ultimately weaken employments rights for everyone, much as Justice Harlan once pointed out that applying the jury trial right to the States just meant the right no longer required a jury of twelve). Although only mentioned once on the panel, I think the worldview at stake was the “two realms” understanding—that the State and the Church operate in separate domains. But there are problems with this view. First, we as a society do not really believe it. The King’s criminal law now reaches into the churches, fortunately, and a capitalist society will always ensure that ministers’ contracts are honored by churches, in court if necessary (as the majority opinion in *Hosanna-Tabor* predictably reserved). But neither do religious believers accept the two realms. For separate realms can also mean marginalization of religion into a private realm. The next time believers want a national motto with the word God in it, the objection will be raised that State and Church are indeed separate, as the ministerial exception seems to imply. The basis of the ministerial exception has to be something quite different—that it is precisely because churches do not operate in a separate realm that the ministerial exception stands for a limit on the omnipotence of the State in any of its activities (and this has been a defense of the symbolism of one Nation under God as well). Of course if this is the case, then in principle the ministerial exception could be available to groups that are not now considered religious and it suggests that *Smith* was wrongly decided since the Free Exercise Clause also stands for the proposition that the government is not omnipotent even in its legitimate activities. *Smith*’s justification is that, as a practical matter, judges do not know how to harmonize robust religious liberty with the legitimate needs of government.

Title: Visiting the Center for Inquiry

Date: 2012-01-15T15:33:00.002-05:00

1/15/2012—It was a great deal of fun speaking to the Pittsburgh Chapter of the Center for Inquiry last Thursday night. My topic was a defense of the objectivity of values and a challenge in the relativism of American secularism—the same topic of my book, *Church, State, and the Crisis in American Secularism*. But when I finished, the widespread reaction was, “we don’t know what secularists you’ve been speaking to, but we are committed to the scientific tradition, so of course we accept the concept of truth. And we don’t doubt that truth can apply to morality as well as to other realms of knowledge.” So we talked about religion and truth. The people in this group are much more open to new ideas than are most of us. It turns out that there is real appreciation of the power of religion—and not in a negative sense—by a number of members, despite the reputation of the Center for opposition to religion. In fact, one person told a story about an event honoring Daniel Dennett and his book, *Breaking the Spell*. A speaker told the assembled one hundred or so people to pinch themselves. Then they all stood up and sang *Amazing Grace*. Afterward, the pinches were repeated. And they did not hurt. This story illustrates the power of myth and art and community. And it led me to ask how secularism is going to duplicate this power, this fulfillment. How is secularism going to teach love and self-sacrifice? The Thursday event also led me to wonder, if the people of the Center can appreciate religion for its good qualities, even though critical of religion as well, then why celebrate a Daniel Dennett at all? Why root for the end of religion? To paraphrase Gamliel in the Book of Acts, if it is to be then it is to be.

Title: But Why Can't People Just Practice a Scientific Way of Life?

Date: 2012-01-18T04:43:00.002-05:00

1/18/2011—I was talking to members of the Center for Inquiry in Pittsburgh about the power of religion, and its capacity to promote healthy ways of life, when someone asked the above question, why can't we all practice science? I answered that the practice of science is inevitably only for an elite, not for everybody. I couldn't practice it, for example. I have been reflecting on this question, which now seems to me to be central to the implications of the growth of secularism. What would it mean to "practice" science as a way of life? In the final scene of the comic book about Richard Feynman by Jim Ottaviani, (as told by Freeman Dyson in the New York Review of Books, July 14, 2011) "Feynman is walking on a mountain trail with his friend Danny Hillis. Hillis says, 'I'm sad because you're going to die.' Feynman replies, 'Yeah, that bugs me sometimes too. But not as much as you think. See, when you get as old as I am, you start to realize that you've told most of the good stuff you know to other people anyway. Hey! I bet I can show you a better way home.' And Hillis is left alone on the mountain." Telling good stuff you know to others is the life of a teacher. And it is a way of life, maybe even a scientific way of life. And it is perhaps open to more people than I would have thought. But now consider the work of the writer Ann Beattie, reviewed in that same issue by Meghan O'Rourke. Listen to the wistfulness in the following: "[T]he recent stories may be less radical than Beattie's earlier work, but they also feel more substantial—full as ever of the old wit, they wrestle more openly with stark, affecting situations of loss, as the characters deal with a parent's dementia (in 'The Rabbit Hole as Likely Explanation') or the death of a spouse (in 'Coping Stones'). The men in 'The Confidence Decoy' and 'Coping Stones,' alone and heading into their late years, are trying to figure out something about themselves. In 'Coping Stones,' Cahill, an aging widower in Maine, discovers that his tenant (who has become a friend) is a child molester. It's a crushing blow, and after his tenant is put in jail, Cahill reflects honestly on his own life, and his wife's complaints that he never really 'got involved': 'The sadness of family life. The erosion of love until only a little rim was left, and that, too, eventually crumbled. Rationalization: he had been no worse a father than many. No worse than a mediocre husband. That old saying about not being able to pick your family until you married and had your own...' " Alone and aging. That is when the stories that religion tells and the community that it builds can bring some measure of peace with our human lives. This is what secularists dismissingly call "comfort." But I doubt we are going to get very far as a civilization without something like it.

Title: One Market Under God

Date: 2012-01-21T06:09:00.001-05:00

1/21/2012—Kevin Kruse, Associate Professor of history at Princeton, hyped his upcoming book, *One Nation Under God: Corporations, Christianity, and the Rise of the Religious Right*, by writing a piece on January 17, on the New York Times blog, Campaign Stops. I hope the book is better than the column. The basic idea is that the rich try to align their good fortune with the will of God. That is certainly true and is a criticism that has often been made of Protestantism in particular under the rubric of the Gospel of Prosperity. While the idea that God loves the rich is a weird deformation of Jesus' message—putting the camel before the horse, actually—there is a serious theological case to be made against the state-worship of the left, which would have horrified Marx. (Marx was at base a kind of libertarian, at least in theory). But nothing of all this has anything to do with one Nation under God in the Pledge of Allegiance. I told the story of how that happened in Huffington Post last May, but it bears repeating apparently: There used to be a tradition, adhered to by some presidents, of honoring Abraham Lincoln's birthday by sitting in Lincoln's pew at New York Avenue Presbyterian Church on the Sunday nearest February 12. On February 7, 1954, President Eisenhower was in that pew and listened to a sermon by George MacPherson Docherty in which Docherty repeated the -- possibly apocryphal -- story that Lincoln added the words "under God" to the Gettysburg Address to show that America's might lay not in military power, but in its spirit and higher purpose and that these same words should therefore be added to the Pledge of Allegiance. Eisenhower agreed and apparently arranged for a bill to be introduced to that effect the very next day. Clearly, Docherty was referring to Lincoln, not corporations. I'm not claiming that this is unrelated to limited government and to freedom, which was precisely Lincoln's hope—"that this nation, under God, shall have a new birth of freedom." But Docherty was not specifically referring to capitalism. This is why Kruse's column is so confused, moving from one Nation under God to "freedom under God" to "government under God." But these don't all suggest the same thing. Maybe the book will be coherent.

Title: Jesus Hopped the 'A' Train

Date: 2012-01-22T07:26:00.003-05:00

1/22/2012—Saturday night, I saw a play at the New Hazlett Theater on the Northside in Pittsburgh, just a few blocks from our house. It was a powerful experience. The play is set largely at Rikers Island and examines the relationship among two prisoners—Angel Cruz and Lucius Jenkins—a lawyer representing Cruz and two prison guards, D'Amico and Valdez. It shows that I have religion on the brain that to me the central issue in the play is the role of religion, which was not much mentioned in Ben Brantley's review of the play in the New York Times in 2000. On the other hand, why this title if not to suggest a look at religion. The setup is that Jenkins is a serial killer about to be extradited to Florida for execution. He acts very much like he has found God and forgiveness since the killings, but we are not sure and the hint of Lucifer in his name just increases our doubts. Meanwhile, Cruz has shot a fraudulent cult leader in a sort of protest of the brainwashing of a friend. When the man dies later in the hospital, Cruz faces a serious murder trial that he has a good chance of winning. But Cruz feels tremendous guilt over his actions and, excessively, over everything wrong he has ever done. Before he leaves Rikers Island, Jenkins tempts Cruz to confess his guilt in the shooting in order to get right with God. In the end, nothing seems to have been gained. The good guard is blind to Jenkins' faults, the bad guard is filled with hatred, the lawyer whose motives are mixed is disbarred for suborning perjury, Jenkins is executed while high on drugs and Cruz is in prison for a long stretch without achieving any forgiveness from the God he longs to touch. Religion as portrayed in this play is a powerful, flawed crutch. Strong enough to mask pain for Jenkins and strong enough to push Cruz past gaming the system, but not good enough or true enough to bring redemption and transformation. The one character who protests the misuse of religion is Valdez, the bad guard, but his righteous protestations mask his own sadism. On the other hand, religion is the only thing these characters have. The characters who lack religion—D'Amico, the good guard and Cruz's lawyer—lack any sense of who they are and may be the furthest from transformation. Or maybe they need it less, in which case religion is a problem rather than a help. Without religion, Jenkins is just demons. Cruz, a street vigilante. With religion, they might be more.

Title: Who is Ready to be Secular?

Date: 2012-01-25T04:56:00.002-05:00

1/25/2012—I am now working on a series of reflections that will become a paper for the April 13, colloquium at Duquesne Law School, at which representatives from three law schools will present forms of works in progress. My contribution will be entitled *The End of Religion in Law*, and it will flow from a précis I posted here at the end of December (see below). There are three parts to the end of religion, just as Charles Taylor suggested different aspects of a secular age that he labeled secularity 1, 2 and 3, in his book, *A Secular Age*. In one sense, the end of religion refers to the decline of influence of religious ways of thinking and being—and that is the aspect I am referring to here. Who is best suited for considering law in such a secular age? Among law professors, you run into three types in terms of foundations of law: the altogether secular, who want to ground law without religious foundations, the liberal religious, who may follow a religious traditions (or at least their kids go to synagogue or church) but for whom religion is irrelevant to public life (including law) and the religious who have come to the conclusion that God is not intervening directly in the world so their accounts of law cannot refer directly to religious categories. The fourth category of religious groundings of law exists, but I don't run into it. Of these three, it is the religious effort at secularity that is the most promising. The effort is like that of the pious physicist, who wants to understand the purely natural workings of the universe because it is God's gift to us and His wish for us. (which is what most scientists in the West had traditionally been like—see Newton). This perspective ensures that science does not become reductively materialist and amoral. The same is true in law. Without the trace of religion, law becomes arid and pointless, if not evil. I believe you can have that trace without belief in God. Buddhists have it and are not always theists (sometimes they are theists despite claims to the contrary). But first secularists have to see the value in such religious traces. Then you can start to have a hallowed secularism.

Title: A New Marxism

Date: 2012-01-28T05:14:00.003-05:00

1/28/2012—When I was asked by Religion Dispatches what I expected to be working on next, after Church and State, I responded "I hope to be able one day to write a serious book challenging the assumptions of capitalism on behalf of a resurgent Marxism." So, as I wrote last September, I have been pondering what a resurgent Marxism might be like. Well, I don't have to ponder this question anymore. I just bought *Envisioning Real Utopias* by Erik Olin Wright. Wright is a Professor of Sociology at Wisconsin. In fact he is the current President of the American Sociological Association. I have only read a few pages, but I can already tell this is a great book. Very readable. Very accessible. Wright's basic themes are hope and democracy. Things can be different from the way they are and there are things we can do and actions we can take. The problem with Occupy Wall Street was always its lack of vision. I don't mean details but even hints. Did the protestors want a new world or a 25% marginal tax rate for the rich? I have come to the conclusion that a new world must be the goal. Capitalism has done great things, but all in all, from its climate changing consumption, to its dehumanized consciousness, to its roller coaster recessions, to its outsized inequality, to its international competition, I don't think it is worth it. There must be a better way. I had an email exchange with Wright about the role of religion in all this. I told him that the secular/religion divide seemed to me to be preventing the formation of a genuinely radical political coalition. I don't think he will mind my repeating here part of his response: "it is important to transcend the false dichotomies of secular/religious in forging coalitions for social justice and social transformation. At the level of the deepest meanings that make life coherent and humane the distance between religious and secular sensibilities is often negligible." I couldn't have said it better. In fact I never have said it better.

Title: Just the Beginning of the War on Religion

Date: 2012-02-01T04:57:00.002-05:00

2/1/2012—Sarah Posner has a very good piece in Religion Dispatches today about Newt Gingrich's talking point charging President Obama with fighting a war on religion. (story here). Part of this claimed war is sheer demagoguery, but part of it is genuine anger at the Administration over its refusal to extend a religious exemption for contraception coverage beyond a narrow category of religious institution to include Catholic hospitals and universities. Posner concludes that whatever Newt's chances of nomination after Florida, "We haven't heard the end of the 'war on religion'. It's just the beginning." Well now, maybe secularists will wake up to a political reality. A perceived war on religion is an electoral disaster in a country overwhelmingly Christian—still around 75%--and massively religious aside from Christianity. The religiously nonaffiliated might number as much as 15% of the population, but that is all. So maybe all that anti-religion rhetoric is at least a tactical mistake. And it is particularly galling to hear Sarah Posner complaining about "war on religion" rhetoric when she has been bashing religion, certainly bashing conservative religion, for quite a while. Anyone who doubts it can read her hatchet job on Rick Santorum back in early January, which I criticized in a blog entry below. All those who have been cheering on the late Christopher Hitchens and his best-selling *God is not Great: How Religion Poisons Everything*—and that is an awful lot of secularists—and all those who congratulated Obama for narrowly defining religious conscience have been engaged in a war on religion. I'm glad that some religious believers are pushing back.

Title: Time to Leave the Democratic Party

Date: 2012-02-04T04:54:00.005-05:00

2/4/2012—A sobering op-ed by Maxwell Boykoff, assistant professor at the University of Colorado at Boulder and the author of *Who Speaks for the Climate*. He wrote it for the *Washington Post* on January 27, but I read a reprint in the *Pittsburgh Post-Gazette* (A Dangerous Shift in Obama's "Climate Change" Rhetoric). The gist of the piece is that while the "Earth is still getting hotter," even politicians who want to do something about it, like President Obama, are using "less charged and more consumer-friendly expressions," such as clean energy and energy independence to describe the problem. Boykoff writes that these changes in rhetoric make it more difficult for the public to understand global warming and more difficult to come up with creative solutions. I think this is true, but it is only part of the problem. As much as I admire President Obama—and unlike other liberals, I don't have much bad to say about him in general (except for the politically suicidal and morally wrong contraception regulations)—the shift away from global warming is another example of how mainstream politicians on the left fail to address fundamental issues. Unlike politicians on the right, Democrats tend to muddle through problems looking for pragmatic solutions. A Ron Paul on the left is inconceivable. Part of the problem is that libertarianism has an appeal to Americans that theories of the left do not—it is telling that I don't even have a name for what that alternative would be. Most left politicians are not socialists. I'm not suggesting that the Democratic Party is wrong to act this way. Politics is not philosophy. And all the Republican Party can offer is uncompromisable demands that make governance impossible. But one consequence of Democratic Party pragmatism is that the real problems do not get discussed. Global warming is a prime example. So the American people do not get the benefit of real debate. No wonder 48% of Americans now believe that the seriousness of global warming is generally exaggerated (March 2010 Gallup Poll). It seems to me the answer has to be to leave the Democratic Party (while carefully measuring actually voting to avoid helping Republican candidates). In the long run, solutions for our problems require actual discussion of them. If that is bad politics, then the political context has to change. Does this mean the Green Party? I'll have to take another look at where that party is.

Title: The Year of the Bible

Date: 2012-02-09T05:02:00.002-05:00

2/9/2012—Republican Representative Rick Saccone wrote an op-ed in the Pittsburgh Post-Gazette on Tuesday, 2/7/2012, defending the January 24 Pennsylvania House Resolution declaring the “Year of the Bible.” Saccone was the prime sponsor. Unfortunately, the Resolution passed unanimously. Curiously, Saccone defended the Resolution by references to God. The op-ed even was entitled, America Owes Much to God. Does Saccone believe that God and the Bible are the same? Does he not realize that there are pious believers who do not? Let’s assume the “Bible” means the Old and New Testament. Then Jews do not think that the New Testament is the word of God. Would Saccone have submitted a resolution that stated that the Jews are wrong? But Muslims do not believe that the Old Testament is the word of God, at least not in full. The Qur’an is the word of God. So they’re wrong, too. But Hindus and Buddhists don’t believe any text is the word of God in the sense that Saccone means it. Well, they’re wrong. So Saccone’s Resolution meant to say that Christianity is the best religion. He should have just written that. If he had, he would have had to see that this was precisely the issue before the framers of the Constitution and just what they rejected in the Establishment Clause and forbade government from saying. That’s right. They forbade government from even saying that Christianity is the right religion. There are many other matters here—the meaning of God, the role of nonbelievers, the nature of human authorship of the Bible. But this much is clear. Representative Saccone has defiled the vision the framers of the Constitution had for the role of government. It’s kind of sad that he does not realize this.

Title: Do Pacifists Have to Pay All Their Federal Taxes?

Date: 2012-02-16T03:43:00.002-05:00

2/16/2012—There is a law professor blog in which the discussion has gone on very heavily in the last few days about the proper legal analysis to use for someone, perhaps a Catholic business person, to challenge the contraception requirement in health care coverage. Surprisingly, the discussion has centered around whether the very exceptions in the law—for abortion, for example, or for others not to pay for contraception—might invalidate forcing anyone to pay for any healthcare provision that violates religious conscience. This discussion caused me to revisit first principles. First, let me say that as a policy I favor exemptions in laws for religious conscience, whether they are required by the Constitution or not. But as a matter of constitutional law, or even statutory protections like the Religious Freedom Restoration Act (RFRA), there cannot be a recognition of a legal right not to pay money for activities by someone else that violate what I believe other people should do. In other words, it is conceivable that a society not force pacifists to fight. But no society can recognize a constitutional right for a pacifist not to pay federal taxes. Recognition of religious conscience must stop at the point of paying money that allows others to engage in behavior that violates my religious beliefs. In the case of contraception coverage in healthcare, imagine that we had a single-payer system. The government would offer health coverage, including contraception, and pay for the system by general taxes. In that case, there could not be a religious exemption for the same reason that pacifists must pay their taxes, all their taxes, without allowing a small deduction for the part going to war. Now I suppose a difference might arise in our healthcare because the business itself is offering the healthcare, but I think the payment of money by a business to cover healthcare costs of employees is basically like a tax. Certainly that would be the case if all businesses paid a small portion of their healthcare bill to cover all employer omissions of coverage (to fund individual healthcare offerings for employees missing some coverage). These examples do not support eliminating conscience exemptions for government programs. But they do suggest that we are only debating all this because of underlying opposition to Obamacare. What is being called a threat to religious liberty—forcing someone to pay money to allow others to engage in behavior of which the person does not approve—cannot really be a principle of religious liberty.

Title: End of Religion II

Date: 2012-02-19T08:26:00.002-05:00

2/19/2012--I have been working on a Manifesto for the future of Secularism and its relationship to religion. For now, the slogan I have is the End of Religion. But as the reader will see, this does not amount to a militant atheism, and certainly not to hostility toward traditional religion. I posted a prior version on January 25, 2012.

Religion as we have known it seems to be coming to an end. While that statement might turn out to be premature, or even false, certain changes in American society seem unmistakable and irreversible.

The first change is that the beginnings of a genuinely secular society—one that does not parasitically rely on religion for its normative orientation—can be seen to be emerging. But this means that secularists have to grapple with whether and how secularism can ground meaning and value in human life. Secularists must confront the role of public ritual, for example, and the issues of human evil and human limit. The banal secular rhetoric that describes nonbelief as “rational” and as grounded in “reality” has not even come to grips with current philosophical debates, let alone with the rich religious philosophies of East and West. Nor has secularism learned the lesson taught by Ernst Cassirer in his confrontation with Nazism—that the repression of myth can have dangerous political consequences. In constitutional terms, an enriched secularism must reinterpret the Establishment Clause to permit a symbolically rich public square, not an empty one.

In the construction of such a deepened secularism—a hallowed secularism—religious insights can serve as important sources of wisdom and experience. But for such interchange to be fruitful, secularism must relinquish any residual hostility toward religion. Secularism must come to see itself as engaged in a search for human meaning and fulfillment that is parallel to, not opposed to, that of traditional religion. This means abandoning the current debate among legal academics over the legitimacy of exemptions to laws that threaten religious conscience. Such religious exemptions do not constitute special and unjust treatment because the secular search for meaning can also be viewed as a form of religious seeking. That is what occurred in an earlier period in the draft exemption cases, in which nonbelieving conscientious objectors were accorded protection under the rubric of religious exemption.

Religion also has a new role to play--a new orientation to adopt—vis-à-vis this emerging and groping secular society. Until now, believers simply resisted secularization, seeing it as a repudiation of God and of the unique and protected role of religion. But this resistance belies the wisdom of Gamaliel in the Book of Acts. If the growth of secularism is not from God, then there is no need to oppose it. And if it is from God, then opposition is useless, if not rebellious.

There are theologians who have seen this. Dietrich Bonhoeffer admired man come of age and wrote of a God who is teaching us to do without him, allowing himself once again to be pushed to the margin of human life. Bonhoeffer did not mean that religion would disappear, only that its cultural dominance would end. Somehow, Bonhoeffer welcomed this change. That acceptance is what religious believers must learn. Only then can religion play a role in the growth of a humane and generous secularism.

Title: Greetings From Sunny Malibu

Date: 2012-02-23T18:05:00.000-05:00

2/23/2012—Today is the beginning of the Second Annual Religious Legal Theory Conference, this year at Pepperdine Law School. I speak on a panel on Saturday and I will be reporting back throughout the next few days. [Note: I will be on break from Monday, 2/27-Monday, 3/5. Patt and I will be visiting Guatemala where I hope to learn something of the religious sensibilities of Mayan civilization.]The Conference begins this evening with a basic question: what is the central meaning of the religion clauses—separation or neutrality. Actually, there are numerous other possibilities and we will be discussing them undoubtedly. Clearly we are at something of a crisis point with regard to secularism and religion in the public square. The two “sides” are both feeling under assault. Both sides are making symbolic and political points rather than seeking compromise or common ground. Two examples: Catholic institutions have been living with something like the compromise offered by the Obama Administration in other places; and here’s one on the other side—during the Vietnam War, liberals strongly supported religious exemptions from the war.

Title: The First Session of the Conference

Date: 2012-02-24T06:50:00.001-05:00

2/24/2012—We heard last night a defense of the uniqueness of religion from Professor Michael Stokes Paulsen (University of St. Thomas) from the perspective of a societal commitment to the truth of religion. No other foundation for religious liberty makes sense, according to Paulsen. Eugene Volokh challenged that view on the ground, among others, that if it were really true, we should eliminate our commitment to religious liberty when we change our minds about that, as European countries have changed their minds. Conversely, Andrew Koppelman (Northwestern) defended neutrality on the ground that it has worked really well for religion. Government should not be deciding religious disputes and when society changes so that what was once obvious now is controversial, government should take note and not be continuing to assert that monotheism is true, for example. Chad Flanders responded, in effect, which level of generality is neutral? Justice Scalia is neutral among all monotheisms; John Rawls is neutral among all comprehensive doctrines. Neutrality as a concept is not up to resolving these distinctions. I was listening for the commitments below the words. Paulsen's embrace of the framers belied the fact that there was no tradition of faith exemptions from generally applicable law during our formative period. The Free Exercise Clause protected religious conscience from specific governmental endorsement of rival religious claims—forcing people to pay taxes for religious services, for example. The point was to be free to practice religion or not. The believer was still expected to satisfy normal social roles. So, what lies behind Paulsen's position is a political claim that government is now doing things that are outside its purview. He opposes Obamacare in principle. And that is what the debate should be about. Religious exemption is a side show.

Title: Reasons for Confidence in the Future

Date: 2012-02-25T07:29:00.001-05:00

2/25/2012—Some great things are on display at the Third (not Second) Annual Religious Legal Theory Conference. For one thing, I heard David Opderbeck (Seton Hall) give a talk about the religious implications of intellectual property law that was absolutely inspiring. I can imagine newly resurgent Christian thinking, on both the left and right, providing energy and imagination to American society to help us address the fundamental problems of late capitalism. This is a theme I will touch on in my talk today. On the other hand, I also got to hear and get to know Austin Dacey, whose name has appeared a number of times on this blog. Dacey is the well-known secularist activist and author of *The Secular Conscience*. Dacey spoke about his upcoming book, *The Future of Blasphemy: Speaking of the Sacred in an Age of Human Rights* (due out next month). When have you heard a secularist willing to even indulge the term, “the Sacred”? Dacey gives me hope that secularism will become open to all the spiritual possibilities of human life. And the willingness of such a well-known secularist to speak at a religious legal theory conference, and the willingness of the organizers to have him, (and me), bespeaks real change. Maybe the motif of two sides is beginning to break down just a bit.

Title: Guatemala

Date: 2012-03-07T17:33:00.002-05:00

3/7/2012—Patt and I returned from our trip to Guatemala Sunday night around midnight. Since our return, I have been teaching and just keeping my head above water. I will be posting about the trip, but let me say at the outset that the remains of Mayan civilization at Tikal, Yaxha, Tapoxte and Iximche evidence a spiritual power that is almost overwhelming. Like Inca sites that I saw in Peru in 2010, to be in the presence of these ruins undermines for me a simplistic materialism. But, unlike Peru, Mayan religion is currently practiced in Guatemala. We saw several ceremonies while we were there, which as far as we could tell were not staged for our benefit. The shaman does not seem to be a wonder worker but a combination of social worker and therapist. The gods are real but seem to be taken with a grain of salt. If they can deliver safety and prosperity, then they are worth worshipping. If not, not. It is an eminently practical undertaking. Not at all the dogma-type system we may think of when we consider religion.

Title: Are Any Other Pro-Life People Outraged and Embarrassed?

Date: 2012-03-11T08:09:00.003-04:00

3/11/2012—As someone who considers himself pro-life, I am having a hard time with State legislation that humiliates and invades the privacy of pregnant women. I haven't liked this approach from the start, in which States pretend that abortion requires regulations for the health of safety of women when in fact abortion providers are being driven out of business or when a woman wanting an abortion is made to wait or in other ways inconvenienced or made to pay money in an attempt to discourage the abortion. These were all lies, but I admit I felt they were at least in a good cause. But Governor Perry has shown me that I was wrong to countenance anything other than an honest effort to overturn Roe v. Wade. Now Texas is requiring an ultrasound and fetal heartbeat monitor--an invasive procedure that government has no business requiring anyone to go through. How would he like it if, in an effort to reduce prostate cancer, the government required all men to submit to a rectal exam and then to send a picture of the exam as proof to a government agency? It would undoubtedly save lives, which is said to be the goal here. Perry would never agree to such a thing. There is a role for ultrasound and fetal heartbeats in understanding what abortion is. Why doesn't Governor Perry create and pay for a serious sex education program in all Texas Junior High Schools? Let all the kids see an ultrasound. Let all the kids hear a fetal heartbeat. Tell all the kids that condoms break and a new DNA appears at conception. Then maybe in the next generation, boys and girls will make different choices. Where are all the pro-lifers condemning the humiliation of women?

Title: The Break-Up of a Section

Date: 2012-03-14T05:06:00.001-04:00

3/14/2012—I'll be telling my students a story today, the story of the break-up of a field, the field of law and religion, and the break-up of a Section of the American Association of Law Schools—the Section on Law and Religion. What is happening is that people who have known each other a long time and used to be able to talk about religion and public life are increasingly on opposite sides of a divide. They no longer can agree about the nature of religion, whether it is basically good. Or at least that is the case with regard to organized religion. Some religious believers in the Section sound bewildered by the change. One said, with regard to a well-known law professor, "I used to be able to talk with her, but not anymore." On the other hand, the secularly oriented, who may or may not be believers themselves, are increasingly fed up with the demands religion is making in the public square and in particular with the perceived war on women. Then there is an additional factor—believers within legal academia are also increasingly assertive, in an intellectual sense. They are beginning to challenge the secular assumptions of what might be called the settlement of the secular paradigm.

There is a lot here. I'm calling this the End of Law and Religion. I'm speaking on it at Duquesne on April 13. Here is a précis.

The rubric for discussion of issues relating to religion in American public life has been "law and religion". That phrase appears in the titles of law school courses, in journals, in specialized centers for legal study and, most revealingly, is the name of the American Association of Law Schools section devoted to this field. The phrase, especially its benign-sounding "and" has connoted a secular law confronting, and in its constitutional guise, regulating an autonomous and admittedly important, but potentially divisive, social practice known as "religion." These assumptions about the nature of religion and its role in public life, assumptions also known as the secular paradigm, have served as a large umbrella allowing persons of differing views about the value and nature of religion to join in shared, even friendly, academic exchange. But today, in a manner reminiscent of the crumbling of shared national institutions at the time of the crisis over slavery, the field of law and religion is beginning to fracture into its secular and religious components. From the secular side, there has emerged a more penetrating critique of religion that refuses to continue to cede to religion unique normative authority. Increasingly, the uniqueness of religion is denied, the justification for religious exemptions from law is contested and the acceptance of religious imagery in the public square is attacked. At the same time, voices defending religion are beginning to challenge the fundamental, traditional assumptions of law and religion that secular justifications for law can be successful and that constitutional law is an appropriate vehicle for the regulation of religion in American public life. Reflecting a sharpening debate in the culture at large, there seems less and less common ground between believers and secularly oriented academics. Evidence of these changes is adduced from several recent and well-known events in the American legal academy. The author at the end of this article seeks to blunt these trends by recourse to an older paradigm of law and religion, one associated with the Vietnam-era draft cases, that suggested that religion itself is the large umbrella under which many nonbelievers and believers can meet.

Title: Pannikar's Rhythm of Being

Date: 2012-03-16T05:03:00.002-04:00

3/16/2012—On two occasions, I have referred to the Michael McConnell/Noah Feldman debate on November 17, 2011, entitled What's So Special About Religious Freedom? Feldman answered, in essence, nothing. McConnell answered, in essence, everything.

That is a misleading way to put it, however, because the topic of the debate should better have been labeled, What is so distinctive about religious freedom? Feldman's point was absolutely not that we could do without religious freedom—he would deny that with all his powers—but that religious freedom is only one part of a larger whole that might be called “conscience”. No free society can do without freedom of conscience but there is no reason to protect that aspect of conscience we call religious freedom to any greater extent than any other part of that field.

Now you might think the debate pointless since it now becomes merely definitional, but the participants saw it as crucial both pragmatically and symbolically. Pragmatically, there are religious exemptions in law now, notably the ministerial exception recently reaffirmed in *Hosanna-Tabor v EEOC* and the Religious Freedom Restoration Act, which although limited, still applies to actions by the federal government. Feldman believes these, and related State protections for religious practice, should either be repealed (no evidence he prefers that) or expanded to conscience protections. From McConnell's perspective, that would necessarily water the protections down and, in any event, religious liberty is distinctively important to protect.

But to argue that religion is distinctive is to be able to distinguish religion from other related human ways of life. One must have a clear idea of what religion is. Feldman did not argue that all meaning-seeking is religious, which he certainly could have. He did not want to assert that we are all religious. So he offered philosophy—love of wisdom—as a way of life equally deserving of protection as religion. McConnell tried to assert religion's superiority to philosophy and in a memorable and genuinely funny discussion of Antigone, McConnell and Feldman debated whether Antigone's dilemma over the burial of her brother was a religious or a philosophical problem.

I thought all along that a debate of this sort is absurd, since the participants did not and could not define religion. But last night I read a wonderful defense of my feeling, in Raimon Panikkar's *Rhythm of Being*. Here is what he writes, in rather complete refutation of both McConnell and Feldman.

“In almost all tradition there has been something considered to be the highest and most comprehensive human activity by which the human being reaches Freedom, Happiness, Realization, Salvation, Peace, or any other name such as Heaven, *nirvana*, or God. If theology is one of the names of this human activity, philosophy, wisdom, *dharmā*, *nijnana*, *budhi*, *tao*, and many others could considered homeomorphic equivalents.

Earlier I referred to the fragmentation of knowledge and present-day cultural schizophrenia. I also said that there is a human need to have an ultimate point of reference, but this point does not need to be a monolithic point. We need a center of harmony where our aspirations find an outlet, a living symbol of our inner peace, a resting place for our thirst for knowledge and our longing for love. Our intellectual and spiritual nature is not appeased by an individualistic solution to this need, nor is it convinced by totalitarian and universalistic ideals. The *via media* I am trying to describe is that human activity which is sometimes called Wisdom and theology.” (207).

Title: Without Gods

Date: 2012-03-19T17:30:00.001-04:00

3/19/2012—In yesterday's New York Times Book Review, David Brooks reviewed *Religion for Atheists* by Alain de Botton. De Botton was lucky enough to be allowed to use the word "guide" in his subtitle—*A Non-Believer's Guide to the Uses of Religion*. As the reader of this blog may remember, my original subtitle for *Hallowed Secularism* was "A Guide for the Non-Believer" but Palgrave didn't like it. Brooks sums up de Botton's thesis very well: "De Botton looks around and sees a secular society denuded of high spiritual aspiration and practical moral guidance." There is now a drumbeat about the failings of secular society, which I wrote about in all three of my books, including the last section of *Church, State and the Crisis in American Secularism*. De Botton is describing a society that has too much faith in the power of the individual to self-educate. All that matters today is individual autonomy. De Botton is skeptical of such individual accomplishment. What is needed is social reinforcement. Brooks writes: "De Botton is not calling for a religious revival. He finds it impossible to take faith in God seriously. He assumes that none of his educated readers could possibly believe in spooky ghosts in the sky. Instead, he is calling on secular institutions to adopt religion's pedagogy, to mimic the rituals, habits and teaching techniques that churches, mosques and synagogues perfected over centuries. For example, religious people were smart enough to combine spirituality and eating, aware that while dining in a group, people tend to be in a convivial, welcoming mood. De Botton believes that secular people should create communal restaurants that mimic the Passover Seder. Atheists would sit at big, communal tables. They would find guidebooks in front of them, reminiscent of the Jewish Haggadah or the Catholic missal. The rituals of the meal would direct diners to speak with one another, asking questions of their neighbors like 'Whom can you not forgive?' or 'What do you fear?'" Ultimately, Brooks finds de Botton's book lacking for a crucial reason—but it is by no means the fault of the author. The problem with de Botton's prescriptions is that unlike classic religion, "a person's whole destiny and soul" are not at stake. Brooks calls this secular life a flatland—the very notion I used in *Hallowed Secularism* on page 53: "The secular world is flat." This is a very deep criticism, but Brooks cannot do anything with it. Brooks is apparently of the view that one must choose between the implausible depth of traditional religion and the flatness of secularism. But he is wrong about that.

Title: Warm Enough For You?

Date: 2012-03-23T05:18:00.004-04:00

3/23/2012—I understand that the shocking warmth in the Eastern United States, including Pittsburgh, is coming to an end. It has been so unbelievably warm for two weeks that even deniers of global warming feel obliged to address the subject. KQV radio, owned by Richard Scaife, had one of their public comment questions about whether the warmth is caused by global warming or by local factors—the answer was 90% local factors. Several observations. First, there is such a thing as confirmation bias. Every instance of warmth seems to me, a committed global warming person, as evidence of global warming. Yet, I don't think that way about cold or the absence of hurricanes. Second, and conversely, since all weather has local causes, it makes little sense to dismiss extreme warm weather just because there is some particular reason for it. Yes, for example, there is some kind of high pressure system, but it has not brought this kind of heat in March for such a long period in living memory. To put it another way, what do the opponents of global warming think it would look like if it did occur? Third, it is not just heat but the absence of cold that shows the world is warming. The recent Wall Street Journal op-ed by scientists denying global warming or its human causes or that we should do something about it, made the claim that it has not gotten warmer in ten years, by which they meant no new global yearly temperature records since 2002. It is certainly the case that if global warming is true, there must eventually be such records set. But the long term average temperature keeps going up even without such records every time there is an above average year. In other words, where are all the cooler than average years? If global warming were not true, we would be due for around thirty years in a row of cooler than average global temperatures. That is not happening. Finally, I am now hearing how the Earth has been warmer than it is now, much warmer in fact—there is fossil evidence of rich life in Antarctica. But the disaster of global warming has nothing to do with heat that destroys human life. If Pittsburgh becomes the new North Carolina, it won't kill anyone in Pittsburgh. The problem is we are organized for the climate we have now, not some new one. Of course the people on the coasts can move as the sea rises. Of course the people of the southwest can move as the climate dries out. Of course wheat production can move to Canada from Texas. But there is a word for such necessary movements—catastrophe. I hope global warming deniers are around to deliver the bad news.

3/24/2012—Dear David: This blog post is in response to your op-ed in the Pittsburgh Post-Gazette about the Reason Rally that was held today in Washington D.C. It sounds like it went well. Congratulations. Many people, especially many secularists like myself, applaud the effort to show that right-wing religious people are not the only game in town. But David, how could you allow a name like “Reason Rally.” Do you mean, as it sounds, that religious people are not committed to reason? Really? Maimonides? Aquinas? Newton? Not committed to reason? I know you are embarrassed by this kind of secular rhetoric because you wrote in your op-ed that secularists do “not claim to have a monopoly on rationality.” But that is exactly what the title of the rally suggests and it is what some secularists in fact believe—that they are critical thinkers who go where the evidence leads them whereas religious people operate on faith against evidence. This is really destructive rhetoric for three reasons. First, because secularists are not in the slightest more rational and evidence driven than anyone else. They have not even learned Freud’s first lesson about our infinite capacity for self-deception. Second, there isn’t any evidence about the matters we are talking about—the existence and nature of God. It isn’t irrational to think that there is an unseen order to the universe. It may be delusional to think otherwise. Here is how the great physicist Werner Heisenberg put it, with full recognition of the pitfalls of such thinking: Was it utterly absurd to seek behind the ordering structures of this world a “consciousness” whose “intentions” were these very structures? Third, when you allow yourself to think and talk this way, you make coalition building impossible. Do you really want that, when 76% of the population identify as Christian? I ask you in the name of a healthier future to help me in the task of finding common ground between believers and nonbelievers. Bruce Ledewitz

3/30/2012—The late Chief Justice Rehnquist explained the limits of the Commerce Clause on the power of Congress to regulate. When the matter is genuinely economic, the presumption should be that Congress can regulate. When Congress is doing something else, close connections to commerce in a traditional sense are more necessary. Under this approach, Obamacare is obviously constitutional. The concerns apparently animating Justice Kennedy about changing the relationship of citizen and government demonstrate that the issue is not the Commerce Clause or even federal power. For wouldn't the same issue be present if Massachusetts required each person to buy healthcare insurance? And wouldn't the same conservative, pro-market arguments be made? But of course, Massachusetts does require such a purchase now. As a fundamental right, this interference by government is justified by a simple reality. We all have health insurance already. Even the uninsured know that if they are in a traffic accident, the ambulance will come out and they will get emergency room treatment. They will not be left to bleed to death. That is what health insurance is, at least in great part. And it is why health insurance is not being forced to buy broccoli. The prospect of the Court striking down Obamacare depresses me. It means the Supreme Court will now be the reason Americans don't have universal healthcare, rather alone in the world. That is not the Court's job. It is not the Court's job to decide the fundamental social/economic system of the country. This decision will be made on the basis of an economic philosophy much of the country disagrees with—as Justice Holmes said once before in criticizing conservative justices. What is the point of teaching constitutional decisions as if they were law? I always said it was just politics and now it obviously is.

Title: A Partisan Day of Prayer and Fasting

Date: 2012-04-01T17:11:00.004-04:00

4/1/2012—My book, *Hallowed Secularism*, asks the question, why has religious affiliation declined, particularly among the young? It is a complex question and the answer must not be simple. Yet, I suggest that a large part of it is failure by organized religion to be credible on issues of the rights of women and gays.

Now I have to add the obvious political partisanship of the actions of the U.S. Bishops in declaring March 30 a day of prayer and fasting in regard to religious liberty. Here is the story from the Catholic News Service:

The U.S. bishops have urged Catholics and “all people of faith” across the nation to observe March 30 as a day of prayer and fasting for religious freedom and conscience protection. The bishops announced the daylong observance in a statement titled “United for Religious Freedom” that was approved March 14 by the U.S. Conference of Catholic Bishops’ Administrative Committee.

They asked Catholics and others to join them in “prayer and penance for our leaders and for the complete protection of our first freedom —religious liberty — which is not only protected in the laws and customs of our great nation, but rooted in the teachings of our great tradition.” The bishops said that among current threats to religious liberty is the U.S. Department of Health and Human Services mandate that forces employers, including religious ones, to provide coverage of contraception/sterilization in their health plans.

Start with the fact that this day of prayer is only about something that harms the Catholic faithful. Not war. Not the end of welfare. But contraception provisions that violate Church doctrine.

Then there is the mixing of politics with principle. The Bishops know perfectly well that there has already been one compromise about contraception and could be more. Church doctrine recognizes lots of grey in these kinds of matters. There is a big difference between forcing a Catholic hospital to perform a sterilization procedure versus paying for an insurance policy that includes funding for such a procedure for an employee, Catholic or not. And, obviously, that is even more the case when the insurance company is told by the government to cover such things without charging the hospital. It is ridiculous to treat such a complex context as if it were a simple matter of absolute right and wrong. By upping the stakes to a day of fasting, the Church looks like it is purposefully opposing the government for partisan reasons.

Finally, there is the matter of timing. The Bishops are not fools and realize that they look to be coordinating the Supreme Court challenge to Obamacare with their narrower concerns. So now it looks like a day of fasting and prayer to defeat Obamacare. But if that is the case, we are entitled to ask, what about the uninsured? Where is the day of fasting and prayer on behalf of the vulnerable—the poor, the orphan, the homeless? The Bishops should be ashamed to be in bed with the reactionary forces that care nothing for the poor.

All in all, the Bishops have now cheapened prayer and fasting to the status of partisan stunt. By demeaning the Gospel, the Bishops have done far more harm to Christian life than any government could do.

4/4/2012—Yesterday, I gave a booktalk at Yale Law School, hosted by the irrepressible and charming Blair Kauffman, the librarian there. The commentator was Samuel Moyn, professor of European history at Columbia, and the author of *The Last Utopia: Human Rights in History*, who is visiting at Yale Law this semester. Sam gave a respectful but skeptical review of the book and I am grateful for the attention from such a thoughtful person. Sam raised a number of important questions, which I set forth below and which I will not answer today. As I did at the talk itself, some of the points require engagement rather than some immediate defense. Of course I cannot replicate all of Sam's points here. I will inform the virtual world when the recording of the exchange will be available online. Sam asked what kind of "crisis" is the crisis in the Establishment Clause that the book purports to engage? Since the American people seem quite content with religion in the public square, is it just a crisis in legal doctrine? If so, how important is that, actually? Doesn't my higher law proposal for both Establishment Clause doctrine and secularism generally lead to the disappearance of the underlying commitment to government neutrality that I claim to be defending? Doesn't my higher law proposal lead to a pretense that is similar to the kind of pretense I criticize in regard to the Supreme Court's refusal to enforce neutrality consistently? Is my higher law proposal a strategy and a compromise or not? While I state plainly in the book that it is not, some language in the book suggests otherwise. Isn't the higher law that the book endorses merely a rhetorical emptiness that has no actual content? If so, doesn't the proposal risk describing the mere appearance of consensus rather than helping to actually forge consensus? Nor is it clear that progressives still attach much meaning to the rhetoric of higher or natural law anyway. Finally, morally serious secularism already exists. So where is the crisis in secularism that the book refers to and why would surrendering a commitment to traditional government neutrality be an improvement over what is present now?

Title: None

Date: 2012-04-08T04:49:00.002-04:00

Happy Easter4/8/2012—C.S. Lewis says that Christianity is one great miracle, meaning that no naturalistic or higher theology account is possible that will square the fundamental Christian claim with any scientific worldview—He is Risen. In the Gospels, the nature of the resurrection is very strange and no one can say what it means literally that Jesus was resurrected. But as the Gospel of Mark makes clear, resurrection is not precisely the central Christian claim. There is no resurrection in Mark. There is only the empty tomb. This is the heart of Christianity and it is why I cannot be a Christian. The dead body of the man Jesus was not in the tomb, nor by implication, anywhere else. This is a straightforward factual claim. If that body decomposed in the natural way anywhere on Earth, this Christian claim is false. Lunacy or lies, Lewis says. I would not be that harsh. The tomb could have been empty for some natural reason. I cannot say, any more than the Christian can explain how Mohammed could have written the entire Qur'an. Although I have not read Lewis on miracles, it is my understanding that he claims that strict naturalism is in principle impossible since without some intervention from the outside, only determinism is permitted. All causes are internal to the system. Nothing new can happen. While quantum theory may require that this argument be reformulated, Lewis is quite right that I just assume that a supernatural realm is impossible. It's not that I reasoned my way there. The supernatural realm, with personality and will, is not plausible to me. I have never seen a miracle and don't expect to. And it is a refusal. After all, as I have made clear in my books, my prayers have been answered and not indirectly. My sins have been forgiven and I have been given help after appeals to God. Even to me, a refusal after all that appears to be ingratitude. But my experiences do not make the rejection of the laws of nature possible. Nevertheless, no one can know. No one can be certain. So, to all Christians, Happy Easter. And since Christ died for the sins of all, Happy Easter to the rest of us too.

Title: Reason Rally Update

Date: 2012-04-12T19:31:00.001-04:00

4/12/2012—Tonight, the Center for Inquiry in Pittsburgh is having a meeting to talk about the experiences of some people who attended the Reason Rally in Washington. I am sorry I have to miss it due to heavy semester responsibilities.

Readers of this blog know that I have been very critical of the assumptions behind the rally—specifically that religious people are not committed to reason and that secular people are. But I would like to discuss these issues at the Center rather than just complaining on this blog. I talked about the Rally on Tuesday at an event at Duquesne discussing the concept of civility. Here is what I had to

say.***** Just as civility is represented by taking the arguments of others seriously, incivility is the refusal to recognize the claims of the other—a refusal to admit that I could, under other circumstances, hold the view that my opponent holds, even though I now believe that view to be wrong. Let me give an example of incivility. On Saturday, March 24, 2011, a rally was held by atheists, non-theists, secularists and others who claim to believe in reason and not God. They called their rally the “Reason Rally”. Now, what does that title, Reason Rally, mean? That religious believers are all unreasonable? That Thomas Aquinas did not follow reason? Worse, the name Reason Rally suggests that I really am reasonable, when we all know that our motives are always mixed. Freud laughs at someone who says he or she just follows the evidence. Such a claim is incivility at a high level. Similarly, in response to David Brooks in his review of Alain de Botton’s book Religion for Atheists, Roy Black wrote to the New York Times last week that that joy of religious contact is indistinguishable from wishful thinking and that it isn’t worth “suspending critical thinking and living what we know is a lie.” Now we don’t know any such thing about religion. We don’t know that the resurrection did not happen, for example. How would we know such a thing? If it did not happen, why didn’t the opponents of Jesus produce his body? And as for God, even the great physicist Werner Heisenberg asked “Was it utterly absurd to seek behind the ordering structures of this world a “consciousness” whose “intentions” were these very structures?”***** Let me give a more nuanced account. Let’s ask about the meaning of history. Is history a tale told by an idiot signifying nothing or is history an account of humanity’s climb away from tribalism to universal values? What will reason tell us about this? Nothing. But our decision here has enormous consequences. In terms of deep politics, reason is just not that important.

Title: Atheism is Growing

Date: 2012-04-15T06:48:00.000-04:00

4/15/2012—While the big news this week is clearly the quasi-declaration of political war on the Obama Administration by the Bishops, which I will be addressing when I have had a chance to fully digest it--Our First, Most Cherished Liberty—there is important other news. This week's The Week reports on The Rise of Atheism. Yet what kind of atheism is it? Still only 1.5-4% of Americans label themselves atheists. On the other hand, a huge and growing group, now estimated to be 19% of the population have left organized religion. This group has been labeled the Nones because when asked their religion, they often answer, "none." How to account for the gap between atheists and nones? Well, it might be cowardice, intellectual and spiritual dishonesty, or just laziness. But I think there is another factor. In the same issue of the magazine, Executive Editor Robert Love apparently one of the nones, reports on his own pilgrimage to the summit of Bear Mountain in upstate New York. He writes, "We've been claimed by the atheists, but I'm more in sync with the pantheists or casual Buddhists. I'd also include in my tribe the Hudson River School of painters, who found transcendence in the beauty of the wilderness and the vastness of creation. For Thomas Cole, the founder of the school, nature was the 'visible hand of God.'" This is not only a beautiful statement, but an important one. It is culturally apt. It echoes a statement by Isaac Newton in a letter to Richard Bentley that I read in the New York Review of Books article by G.W. Bowersock. When contemplating the regular relationship of the sun to the planets, Newton wrote, "I do not think explicable by mere natural causes, but am forced to ascribe it to the counsel and contrivance of a Voluntary Agent." Nothing about our existence suggests to us contingency and accident. We are at home. This universe is fit for us and for our purposes. Naturally that is true since we evolved here—it is true naturally. But how does it all fit together so well? So we Nones say, there must be some force or power. An inelegant expression, but worlds away from a certain kind of atheist tone.

Title: Back to the Bishops

Date: 2012-04-21T08:44:00.002-04:00

4/20/2012—While I don't know Rick Garnett, the Associate Dean of Research at Notre Dame Law School, well enough to call him a friend, I do have great respect for him. He is an honest guy. So I want to respond here to his claim on the Mirror of Justice blog, and elsewhere, that the recent statement by the bishops on religious liberty is not partisan, that in fact the response to the statement is what is partisan. Since I am one of the sort of critics Rick is referring to, I want to better explain what I mean.

The partisan quality of the statement does not inhere so much in the specific claims it makes as it does in its tone, emphasis and timing. The tone is one of opposition to a fundamental, imminent and unprecedented attack on religious liberty. But this is not true and the examples with which the document begins plainly indicate that this is not the case. It was always true, for example, that it was a crime to harbor a fugitive. There has not been legal recognition of refuge for a very long time.

The emphasis of the document is on the contraception mandate under HHS regulations, the first example it lists. Now, with the exception of what the Church considers to be "abortion-inducing drugs," this emphasis is not justified. This is an issue on which compromise is possible and my understanding is that there have been contraception mandates in the States before. The Bishops have shown no willingness to compromise or propose compromise, but appear to be picking a fight.

To illustrate what I mean consider a document issued in 2007, before the contraception debate occurred: The Challenges of Forming Consciences for Faithful Citizenship (summary the United States bishops reflection, Forming Consciences for Faithful Citizenship). This document outlines political judgments that Catholics must make but uncompromisingly condemns a political/legal system that permits, and by implication support for politicians who support, abortion, euthanasia, human cloning, and destructive research on human embryos. These are called intrinsic evils. In addition, another set of acts is condemned as assaults on human life and dignity: genocide, torture, racism, and the targeting of noncombatants in terror and war.

Obviously, nowhere on this list is vasectomies. The emphasis on vasectomies and tubal ligations in the bishops statement is ridiculous in comparison with what is actually of crucial importance. If suddenly contraception has climbed so high in importance, then I say the reasons are partisan. Duquesne University used to pay for vasectomies. I had one myself.

Which leads me to the timing. The bishops statement has turned into just one more plank in the Republican Party attack on Obamacare and the Obama Administration. And if the bishops did not anticipate that, they certainly should have. Worse, the statement completely omits any praise for the effort of which the opposed mandate is a part, to provide healthcare for the uninsured, which used to be important to the bishops but now apparently is insignificant.

Title: The Continuing Attack on/Engagement with Religion

Date: 2012-04-26T04:58:00.002-04:00

4/26/2012—Not that there is anything wrong with attacking religion. I mean the title of this blog entry to be descriptive, not evaluative. There does seem to be a continuing attack by secularists against religion at the same time that other secularists are looking to religion to provide insights for secular life.

Because this semester is so hard for me, I get behind in my reading contemporary sources, such as the book review in the New York Times. So I had occasion this week to look through some recent ones. I was looking at the weeks of March 18 and March 25.

The book review of March 18 contained the engagement part. David Brooks reviewed Alain de Botton's book, *Religion for Atheists*. I now have Alain's book and I look forward to reading it. According to Brooks, Religion for Atheists begins with an indictment of secular society—it is “denuded of high spiritual aspiration and practical moral guidance.” (I wonder what Alain thinks of the work of someone like Michael Sandel: are his courses and books and tv programs practical moral guidance?).

The issue of March 25 interestingly presents Philip Kitcher, whom I have treated as one of the New Atheists, criticizing Alex Rosenberg's book, *The Atheist's Guide to Reality*, which Leon Wieseltier picked as the worst book of 2011 in The New Republic. While Kitcher considers the award “misplaced,” he challenges the extreme scientism of Rosenberg's book that seeks to debunk the “Big Questions, questions about morality, purpose and consciousness.” Science has either answered these questions or shown them to be pseudo-questions, asserts Rosenberg.

Next is a review of Jonathan Haidt's book, *The Righteous Mind: Why Good People are Divided by Politics and Religion*. Haidt's message is that people are not guided by reason. Reason just supports positions we have already selected (or intuited or something). Conservatives in many ways capture these intuitions better than liberals do. But then Haidt also wants to reform society so that reason and intuition interact in healthier ways. We need to understand human nature better so that we can develop sympathetic debate rather than antagonisms.

There is an odd tone to this book, at least in the review. The assumption is that conservative positions are less reasoned. Is that so? William Saletan reviewed Haidt's book. Saletan wrote the book *Bearing Right: How Conservatives Won the Abortion War*. But maybe conservatives “won” the abortion war—Roe is still the law and millions of abortions take place so is that war won?—if they did, because killing unborn children is wrong. And maybe it was science in the form of fetal imagery that changed the abortion debate.

Another example of scientism is Lawrence Krauss' book, *A Universe From Nothing: Why There is Something Rather Than Nothing*. It turns out that this eternal question from metaphysics has been answered by science. There is something rather than nothing because of quantum vacuums that are unstable and produce everything there is. This is interesting but I'm not sure it is to the point. As David Albert writes, then why are there quantum vacuums rather than nothing?

Finally, one more challenge to the spiritual wasteland with which we began—a review of J.G. Ballard's *Kingdom Come*—“J.G. Ballard's final novel envisions the collapse of consumerist culture. This is the spiritual dead end that Alain is afraid of. Seems like a lot of buzzing around something similar, does it not?”

Title: Charles Murray and Alain de Botton Agree on the Emptiness of Secular Life

Date: 2012-05-02T20:29:00.002-04:00

5/2/2012—In the midst of various “good without God” campaigns, comes a revealing juxtaposition. Charles Murray, the conservative author of the controversial 1994 book, *The Bell Curve*, and original Swiss philosopher Alain de Botton, probably do not agree on much. But in their latest works, they seem to agree that secular institutions are unable to provide spiritual nourishment in our time and that an infusion of religion is needed. I’m overstating for effect. They don’t entirely agree. In *Coming Apart: The State of White America*, Murray notes “an elite that is hollow at the core” and a lower class characterized by severe moral deterioration. Apparently he ends the book calling for a quasi-religious awakening (according to Andrew Hacker’s review in the *New York Review of Books*). In contrast, Alain de Botton’s new book, *Religion for Atheists*, argues for only parts of the religious traditions. But he does note that when religion was more influential, social institutions cared about souls. Now they do not. And that is a great loss. There is something here to ponder. For all the critiques of religion, a widespread nonbelief has not yet shown that it is spiritually sustainable on its own. The question has never been whether an individual can be good without God. That is obviously so. The question is whether a society that is without God can be good without at least a substitute for religion that contains some aspects traditionally associated with religion. The jury is out on that question.

Title: The Future of Secularism

Date: 2012-05-09T05:02:00.000-04:00

5/9/2012—Secularism needs its own annual conference. Readers of this blog know that I am working on a series of questions of the future of secularism around the issue of religion and the Constitution. But think of some of the other questions a conference could take up. Secularism and the economy. A New Marxism is beginning to emerge. See Erik Olin Wright's *Envisioning Real Utopias*. It is secular to its core. But in contrast, there is the religious critique of capitalism—think Pope Benedict, for example. And there is the religious critique of socialism—there was a post just yesterday at CLR Forum concerning Jean-Marie Guenois's blog post on *Catholic Social Thought and Socialism*. How much of this religious critique can be captured by secularism? None? All? The New Atheists say nothing about the economy. Secularism and rationality. While secularist groups praise rationality in such events as the Reason Rally, psychology and brain science undermine such pretension. We are all irrational and that is not a bad thing. Secularism and spirituality. A friend says that the real hallowed secularism is Tiantai Buddhism. Here we have a great rationalist tradition deeply grounded in a kind of horizontal transcendence. No supernaturalism here—or materialism either as usually understood. Another way that might rescue secularism from its flatness. Secularism and peace. Here at least the New Atheists had something to say. The source of conflict in the world is religion so we have to get rid of it. I doubt this but it's worth exploring. Secularism and ethics. Is everything relative and culturally determined? Or is there something enduring? And where do human rights fit in? Secularism and Jurisprudence. Secular legal thinking begins and ends with John Rawls. Not too much there in my view. There are new religious critiques of this foundation that seem promising and not out of secular reach. And this is just for starters.

Title: Religion at Occupy Wall Street

Date: 2012-05-15T04:53:00.001-04:00

5/15/2012—First of all, thank you readers for your patience while I graded exams. All done for the semester. I was going to write about the absence of religion at Occupy Wall Street and its related manifestations. That was to make a larger point about the lack of a religious component in the left's critique of capitalism (which is not really a critique at all, just criticism that tax policies and regulatory policies should be different). And all that was to make a larger point about the absence of spiritual/religious life on the left. Except that none of that may be true. You can find stories about religious services and religion at OWS. (Here is one from PBS) I don't know if the same was true at Occupy Pittsburgh, but it could have been. So it is back to the drawing boards. There is a message here, but I'm not yet sure what it is. Is OWS an exception to the general hostility to religion on the left? If so, it is a good starting point for a reconsideration of religion among secularists. And the story of religion at OWS may also tell more about the state of liberal religion in the 21st Century than anything else. For example, in the 60's there would have been a Catholic presence at an event like OWS. Has the American Catholic Church lost its economic vision? In the 60's, a movement like OWS would have touched off an economic debate within Protestantism. Has American Protestantism become too fractured to have any such debate today? Islam played a role at OWS. Obviously that is an important difference from the 60's. And Judaism, too. There was a large Kol Nidre service last fall. Throughout the Republican Presidential Primary campaign and the debates about Obamacare and religious exemptions, God has seemed the property of the Republican Party. And at least some on the left are ready to say good riddance, especially considering the positions of organized religion on abortion, gay marriage and now even contraception (although that is only the position of the leadership of the Catholic Church). But that is a mistake for two independent reasons. Obviously it is a political mistake given the religious nature of America. But it is much more a spiritual mistake. The truest saying in the Gospels is that man does not live by bread alone. There is more to reality than that.

Title: Raimon Panikkar on Church and State

Date: 2012-05-21T05:36:00.002-04:00

5/21/2012—Twenty years after delivering the Gifford Lectures in 1989 and 1990, Raimon Panikkar published *The Rhythm of Being*, which was an expansion and development of them. The book is difficult and well beyond summarizing. But I was struck by Panikkar's understanding of what we would ordinarily call Church and State—the role of religion in a public sense. A piece of this description occurs on pages 234-235 of the book. Panikkar is describing “every country under the sway of technocracy” which can be understood as the modern culture of global capitalism. It is not dependent on political institutions. Panikkar would certainly include urban China, for example. In these countries, many people “still pay lip service to religious values.” So the essence of a change has nothing much to do with how often people go to church or call themselves nonbelievers. In such modern cultures, the vision of reality has changed from tripartite to forms of dualism. Instead of body, soul and spirit, for example, one thinks of soul and body or spirit and matter. But this form of spirit is not the sacred. Rather, life is lived in the realms of the sensible and the rational. (I believe Panikkar would view most of what passes for religion as quite rational in such cultures.) He writes, “modern culture has constructed a civilization in which the Divine is ousted from the actual life of the civitas”. He does not overlook the responsibility in this of religious institutions, which felt that the privilege of managing the sacred was theirs, which led nonmembers or nonleaders to imagine they could dispense with religion altogether. In such a culture, once “the sacred (the Divine or God) has become a superfluous hypothesis for the running of civic life, the sacred suffer social atrophy, and talk about the Divine is reduced to a more or less odd specialty for some people who are removed from ‘real’ life. Religious faith is sociological irrelevant; it becomes an indifferent matter whether to believe or not to believe.” There is a lot here. But most important is the conclusion that there are social consequences from the privatization of religion.

5/24/2012—Rachel Ozanne has written an interesting response in Religion Dispatches today entitled “Heretics” or “Atheists”? that responds to an earlier piece in RD by Kate Blanchard, Coming Out as a Heretic. And, although strangely not mentioned, Ozanne is also responding to Ross Douthat’s new book, Bad Religion: How We Became a Nation of Heretics. It seems that as the phenomenon of nonmembership in organized religion has grown, especially among the young, so that the “nones” have become a significant group in America (12%? 15%? More? Less?) the question has begun to be raised, “who are we?” Or, in Douthat’s case, “Who Are They”. The issue comes up in law, too. There, the question is often about religious exemptions from generally applicable laws. That is the fight going on right now concerning the requirement of coverage of contraception by employers that a number of Catholic institutions are challenging in court. In that instance, the question is whether a religious exemption should be granted. But when such exemptions are granted, the issue becomes, who is covered by them? Who gets to claim that they have “religious” objections to vaccination for their children? Pennsylvania has come up with a conscience claim on that front to open up vaccination objections to the nonformally religious. Others have suggested that maybe the Free Exercise of Religion Clause in the Constitution should be understood as a free exercise of conscience clause to change the debate over “religious liberty” that is going on right now. Partly, this discussion of terms concerns the closeness of people to the historical religious traditions. I wrote Hallowed Secularism, rejecting the term atheist, because I felt that nonbelief could still reside in the neighborhood of the religious tradition, even the monotheistic tradition. Others adopt the term atheist clearly to break with that tradition. Partly, the debate over terms—it is not really a debate—concerns the nature of reality. Some nonmembers of the organized religions are still supernaturalists in a rather traditional sense. Surveys show that some of the nones believe in heaven or angels or have communicated with the dead. But among the non-supernaturalists—those who can say “this world/reality is all there is,” there is still a debate about what that means. Or, as I put it, This world is all there is, but there is more to this world than meets the eye. Now, that position fits some naturalist religions. It contests materialism of a reductive kind. And it does not sound atheistic, even though it breaks with the personal, supernatural God.

Title: Happy Memorial Day

Date: 2012-05-27T06:29:00.002-04:00

5/27/2012—Tomorrow is Memorial Day, the day on which we honor those who have died fighting in our nation's wars. It is in contrast to Veterans Day, in the fall, when we honor those who lived and all those who served in our armed forces. But there is a more subtle difference between the two days than that. Memorial Day originated to honor the fallen of the Civil War, more or less on both sides. Veterans Day was formerly known as Armistice Day, which celebrated the signing of the Armistice that ended WWI—11th hour of the 11th day of the 11th month of 1918. The two wars, the Civil War and WWI illustrate the ambiguity of war—the sense we retain of good wars and the wars of power. The Civil War and WWII are the quintessential good wars—wars to end slavery and fight aggressive fascism. In contrast, WWI began and ended without obvious accomplishment or necessity. It has never been clear why Europe had to go to war at all in 1914 and the 1919 Treaty of Versailles that ended WWI was unwise in many ways and certainly contributed to the rise of Nazism in Germany. Today, of course, we can contrast the war in Afghanistan after 9/11 with the war in Iraq, still an unclear outcome. But I don't mean to be simplistic about this. All wars have consequences, even if unforeseen. President Bush went to war in Iraq to bring democracy to the Middle East. Today, Egyptians are in the midst of a real election for President. I don't know if the Arab spring had anything to do with the war in Iraq or not.

Title: Seeger—an Extraordinary Case

Date: 2012-05-30T05:09:00.000-04:00

In one of these contexts I am using as a model the Supreme Court's Vietnam Era Draft cases to illustrate a new way for Americans today to think about belief and nonbelief. The title of one of the pieces I am working on is "We Are All Religious Now" because of the extremely broad way that the Supreme Court understood religion in these cases.

Thus I have had an occasion to revisit three remarkable cases: *US v Seeger* (1965), *Welsh v US* (1970) and *Gillette v US* (1971). In terms of religion, some would add *Wisconsin v Yoder* in 1972, but that was not a draft case, so I will leave it out for now.

Seeger is the most thorough exploration by the Supreme Court of an important realm of learning outside law that I can remember. The context of the case is three claimants of conscientious objector status during the Vietnam era draft: Daniel Seeger, Arno Jakobson, and Forest Peter.

Congress had broadened the exemption statute to include "persons who by reason of their religious training and belief are conscientiously opposed to participation in war in any form." Religious training and belief were defined in the Act "as an individual's belief in a relation to a Supreme Being, involving duties superior to those arising from any human relation, but (not including) essentially political, sociological or philosophical views or a merely personal moral code."

The three claimants challenged the constitutionality of this definition as excluding the nonbeliever and some religious believers, but Peter and Jakobson also claimed that their beliefs met the statutory definition. The Court held in a unanimous opinion by Justice Clark, but one that Justice Harlin later repudiated (*Welsh*), that all three claimants met the statutory definition, thus avoiding the constitutional question. By using the term Supreme Being rather than God, Congress had intended "to embrace all religions." And the proper test of religion "is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption."

As became clear later in the opinion, the reason the Justices felt they could not distinguish between traditional theism and nontheism is the broad understanding that religious thinking applies to the question of God. Justice Clark concluded that God does not just mean the orthodox God, but "the broader concept of a power or being or faith, to which all else is subordinate or upon which all else is ultimately dependent." And he seemed to think of religion as "dealing with the fundamental questions of man's predicament in life."

This broad approach "embraces the ever-broadening understanding of the modern religious community". Clark then quoted the theologian Paul Tillich, Bishop John Robinson, Vatican II and perhaps most revealingly David Muzzey, "a leader in the Ethical Culture Movement." For Muzzey, everybody except the comparatively few avowed atheists believes in some kind of God. In a similar tone, the opinion quoted Tillich as referring to the God above the God of theism, "the seriousness of that doubt in which meaning within meaningless is affirmed."

Under this understanding of existence, who is not religious and who would not want to be religious?

6/2/2012—I can easily predict that the 1st Circuit case striking down a section of the Defense of Marriage Act on Thursday will be reversed by the US Supreme Court. That, after all, could just be judicial politics—conservative Justices voting against gay rights. What might be surprising is that it could be a unanimous decision. The justification for the Court of Appeals decision is a serious limitation on the spending power of the federal government. The court held that Congress could not decide on its own definition of marriage for purposes of providing federal benefits. The precedents relied upon were ones that most supporters of the decision probably opposed at the time—Morrison, which struck down the Violence Against Women Act, for example. I have little patience with these states rights cases and I care little for federalism arguments. But even conservatives have never argued that state law definitions could limit the discretion of the federal government to provide benefits in its own programs. The other problem with the decision is the one that the court said it was not deciding. The Supreme Court is not likely to agree that there is no justification for limiting marriage to a male and female other than some form of bias against gays. The analogy to racial limits on marriage has always struck me as inapt. Marriage did not have anything to do with race inherently, but it did have something to do with procreation inherently—even though people like myself, unable to procreate can still get married. In the end, my dissatisfaction with the decision is of a piece with my opposition to any judicial decisions about gay marriage. I want to see gay marriage supported by the voters. I am ready to vote for gay marriage in Pennsylvania right now. I don't think judicial imposition works. Remember, it was judicial imposition that has led to many states adopting constitutional amendments banning gay marriage. The refusal of the Pa. Supreme Court to recognize gay marriage is one of the reasons efforts to amend our constitution to ban gay marriage have not worked, thus leaving the matter to the voters and the legislature, where hopefully gay marriage will be adopted.

Title: How Do the Draft Cases Aid in Resolution of the Culture Wars?

Date: 2012-06-08T06:32:00.002-04:00

6/8/2012—I have been hard at work this week on an article, which I hope will become a book, trying to apply the draft cases of the Vietnam War to today's divisions between believers and nonbelievers. For background, see my post below from May 30 about *Seeger* and the other draft cases. What they did in essence is apply a religious conscientious objection exemption to persons of sincerely deep conviction against all war—persons who did not believe in God and who did not really consider themselves to be religious. The Supreme Court said in effect, you are religious.

I am suggesting that this approach—seeing nonbelievers as religious—including myself of course, but only for certain purposes, would be helpful in showing ourselves that we all share important common ground. Others in my field of law have a different starting point. They ask whether nonbelief is itself a belief and conclude that generally it is not. Or they ask whether nonbelievers are developing beliefs that are like religion.

If instead of such labeling, we asked what nonbelievers actually believe, we would often find—and here I speak personally—a sense of “transcendent moral obligation”—a sense that what I do is of infinite significance in the universe and that I am called to practice a particular way of life. In other words, many “believers” and “nonbelievers”—and now I have to use quotation marks for these terms—believe the same kinds of things. Some of those beliefs are very far from the beliefs of traditional religion in the cases of both “believers” and “nonbelievers”. Some of those beliefs will be very close to the beliefs of traditional religions, again in both cases.

Once this point is made in a way that penetrates the culture, the divide between believers and nonbelievers must inevitably recede. Once nonbelievers begin to ask what it means to feel the weight of infinite significance, they will stop speaking of “rationality” as the basis of life. And they may cease to regard believers as merely superstitious. It may even occur to nonbelievers that words like God might include and describe many of their own commitments. This is what I mean by the suggestion that the draft cases can heal our culture war divisions.

I use a number of examples to make this point. Ross Douthat's new book, *Bad Religion*. Andre Comte-Sponville—the author of the *The Little Book of Atheist Spirituality*--one of my favorite thinkers and Alain de Botton.

My final example is a short essay by the well-known atheist Austin Dacey in which he discusses the law of blasphemy related to his recent book, *The Future of Blasphemy*. Dacey makes the point that there is a symmetry between the commitments of the believer and those of the nonbeliever: “From a moral perspective, there is an important symmetry between the attitude of the believer who reserves special reverence for a deity, saint, or prophet, and the attitude of the secularist who asserts that every person is equally holy. Neither of these beliefs is uniquely deserving of being labeled a spiritual commitment, relegating the other to mere ‘speech’ against that commitment.”

While Dacey is arguing a different point from mine here—Dacey is arguing that atheists deserve protection as much as do religious believers—his premise is my thesis: that persons who do not believe in God still dwell in a world, still speak the language, still make commitments to and still are in relationship with, the sacred. And because of that, the draft recognized them as eligible for religious exemption.

At this point I have to say, what is the problem? Why are we divided? Once believers are seen as nonbelievers and nonbelievers as believers, it will be easier for us to talk with each other.

But this recognition places a burden on persons not affiliated with traditional religion. For whereas many traditional believers really are willing to admit that they are not genuinely believers—that is just akin to admitting that we are all sinners—we secularists have been unwilling to press our beliefs beyond insipid clichés about rationality. We “nonbelievers” must begin to ask what it is we believe and affirm. In a general sense, we affirm significance, objectivity and meaning. But we have not yet made these general commitments definite. Insofar as the draft cases are willing to grant religious exemption to a beliefs that “occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption,” we now must ask in a serious way, what kind of nontheistic, nonreligious belief is parallel to a belief in the orthodox God?

Title: Cut Off from Blame and Punishment

Date: 2012-06-10T06:49:00.000-04:00

6/10/2012—On Friday, I think, Accuweather reported a startling statistic about the past twelve months in the US—they were all above average to a great extent so that the average temperature was 3.6 degrees F over the long term average. The odds of something like this happening due to chance were 1/341,000. Something like that.

It was another indicator of global warming that could have been natural. But piled on top of all the other warming stories, seemed like pretty good evidence to me.

The reaction, however, was vociferously negative and three reactions stood out to me. (By the way, I cannot today find this whole story and exchange on the site, but since the details don't matter to the point here, I'm not going to double check. If I'm wrong on the details it won't change the essence. Something of the same story is reported [here](#) with some different negative reactions).

One person wrote, remember Climategate; maybe we're being lied to by the scientists. Another wrote that man cannot change the planet's climate. Man is too puny and the planet too vast. A third actually wrote, Blah Blah Blah—get over it. (Somewhere else, the temperatures were attributed to the peak of the solar cycle, not warming gases).

In all this, the only religious reaction is the Christian remnant that man cannot change the climate. This idea in its original context was a condemnation of man's pride. It is being resorted to here, however, to prevent repentance rather than to encourage it, quite different from its original setting.

What is missing from all this is how religious people might have heard this message two generations ago. A Martin Luther King, Jr., or a Reinhold Niebuhr, or a Karl Barth might have heard a message of God's punishment for the greed of man. The rich create an economic system that serves no one but themselves, sacrificing the poor and also the middle class, and practices violence toward God's creation. God has now sent warnings of his wrath, but as usual, men intent on business as usual ignore the signs.

This account of global warming perfectly encapsulates prophetic messages from the Old Testament. It is so obviously fitting to our situation that it would discomfort the weird marriage of the religious right with capitalism.

But there is seemingly no one to deliver this message. Liberal Christianity is weakened by its felt bad faith over gay rights and its uncertainty over just what kind of God it believes in. It lacks the power of conviction.

Obviously secularists like me cannot resort to this narrative when we deny the existence of a God who rewards and punishes.

Maybe something can be thought through the view of karma. Or Emerson's Compensation. All I know is that the Old Testament promise remains true. If you misuse the poor, if you ignore creation in pursuit of wealth, the rain does not fall—and the temperature goes up and the whole human world, including the rich, the children of the rich and the grandchildren of the rich, will suffer.

Title: Do We Have Any Player as Good as Jesus?

Date: 2012-06-14T04:59:00.002-04:00

6/14/2012—I just read this week's Sports Illustrated cover story about Rangers centerfielder Josh Hamilton. It is the sort of story I usually find vaguely irritating, like stories about former Communists who want to lecture me about freedom and capitalism. Here is part of the news release from SI—quoted at Sherman Report--"Texas Rangers centerfielder Josh Hamilton is on pace to have one of the greatest seasons in major league history, but one night earlier this year could have altered everything. Hamilton's battle with drug and alcohol addiction had wasted five years of his career and an alcohol relapse in a Dallas bar in late January gained national attention. His family, teammates, the Rangers organization and most important Hamilton have moved on from this worrisome moment, but the difficult journey Hamilton faces every day is the cover story for the June 11, 2012, issue of Sports Illustrated, on newsstands now." A large part of the story concerns Hamilton's born-again Christian beliefs. He describes himself as in a literal and frequent conversation with the Holy Spirit. Occasionally, Hamilton will even be informed when he is about to hit a home run. Now on one level, I find all this a little strange, especially the detail Hamilton reports, but as someone who has received messages of a sort himself, I find myself more than a little strange also. There is apparently more to reality than any simple account can capture. Anyway, that is not my point here. In the article, Hamilton reports that fans of other teams taunt him about his addiction history in truly vicious ways. He is asked how he deals with this. He says that Jesus taught his followers to pray for those who persecute them, so that is what he does. He prays for those idiots in the stands (my term, not his). The article does not specify what Hamilton prays, but the author of the piece, S.L. Price, believes he prays that they become better, more compassionate, people. I think at this point, you and I must agree that Josh Hamilton is a better person than we are. I know I would not react that way. And the reason he is a better person seems to be that he is a follower of Jesus and we are not. I don't want to be partisan about this. I imagine that a former addict turned follower of the Buddha or Confucius or Mohammed would also be a better person than you and I. The point I take from this story is my usual one. The religious traditions are excellent sources of wisdom and character formation. We secularists lack what they have. We need to study them and borrow from them.

Title: My First Fatherless Father's Day

Date: 2012-06-17T09:30:00.001-04:00

6/17/2012—Happy Father's Day to all, especially Jonas, Ryan and Tom.

My father passed away last Thanksgiving, at 94. I miss him but I cannot say I am sorry he died. His last years were not good for him or for his family. Father's Day is a time to think of him and of the diminishment of fathers in America in general.

The traditional role of fathers was to provide materially and spiritually (in the sense of discipline and morality) for their families. My father succeeded very well in providing materially and that was very important to him. He was a successful businessman and investor. He made money while everyone else lost money. I owe him a great deal, including the freedom after law school to pursue my life free from student debt.

Spiritually, I think he was not as successful. He certainly tried to instill the values of Jewish life in his sons, but I'm not sure those values were truly embedded in him. Once he moved to Florida, many years ago, Judaism sort of faded away because he never connected institutionally with it there. He never joined a synagogue in Florida, for example.

I can look at fatherhood in general through the lens of my own father. More and more, the American economy does not allow men to support their families. I know there are other possible models of family life, and I am not denigrating them, but they are no improvement. It is obviously better for men to be able to earn good wages and for fathers and mothers then to be free to decide the best model of child rearing for that family.

Fatherhood is also diminished from divorce. The tendency is for the father to fade away from family life or to be drawn away by a second marriage. This happened to my father to a certain extent. (Of course you can be very lucky in a second marriage, as I was, and end up with a happier, bigger, though more complicated family.) Again, divorce is often necessary and a vast improvement, but it would be better to choose more appropriate partners in the first place and for a lifetime.

But the main diminishment of fathers is not economic or social. It is deeper. The crucial point of fatherhood is to be a rock of integrity in the stormy sea of life. Your children are supposed to look at you and say, I know what honesty and forthrightness look like because my father was like that. I hope children receive love from their fathers as well, but if I had to choose, I would choose uprightness.

But American life has lost its sense of integrity. All around is lies. I have a hard time thinking of anyone in public life I really trust. I certainly don't see leaders of industry putting their workers and customers ahead of their own financial interests. I don't see politicians telling the truth—unpleasant truth—to voters. I don't see pundits breaking ranks with their political factions. I trust most scientists, but Climategate undermined even that.

So Happy Father's Day. And if you want to know how to be a good father, I'll tell you. Work hard. Put your family first. Listen when your children want to talk. Always tell the truth. It's the most difficult and important job a man can have.

Title: The Misuse of Religious Exemptions

Date: 2012-06-21T06:25:00.004-04:00

6/21/2012—I write as someone, I hope, who favors religious exemptions and generally is sympathetic to religious believers who face crises of conscience. So I object to the misuse of religious exemptions and believe that they greatly harm religion in America.

The history of religious exemption begins really with Quaker exemptions from conscription, which gradually broadened to include all religious believers, and even some nonbelievers, who opposed all war. In many instances, conscientious objectors paid a high personal price for their principle opposition. These objectors created an admirable tradition.

In the case of abortion, it is clear as well that principled objection, deeply felt, motivated calls for religious exemption. Many Catholic, and other, hospitals would not perform abortions even if the State demanded it.

But by the time we get to the Bishops objecting to contraception coverage in Obamacare, changes have occurred that weaken the case for religious exemption. For example, there is some kind of example—true I guess but maybe apocryphal—of a Muslim cab driver refusing to carry passengers with alcohol. And there are pharmacists who refuse to fill some prescriptions, notably emergency contraception. The problem is that these are roles that have required an all carrier policy in the past. Cab drivers by law have to pick up anyone and such laws are important to minorities and others who need such transportation and are the most likely to face subtle forms of discrimination. And anyway, I don't want the religious owner of a national hotel chain requiring a marriage license before he will rent me a room.

But now the problem is getting worse as religious institutions descend to pure self-interest. So we have the case of Duquesne University suddenly getting religion and objecting to a unionization drive by adjunct professors on the ground that Duquesne—my university by the way—is a Catholic institution. Of course that is true, but Duquesne raises no religious objection to unions (the Catholic Church supports unions and always has). It is obvious to everyone that Duquesne is just another employer who would prefer that employees not unionize and is dressing this self-interest up in the robes of the separation of church and state.

Now, religious schools are pressing State legislators in Pennsylvania to transfer regulation from the Department of Public Safety to the Department of Education ostensibly to protect the schools and day care from government discrimination against their religious messages—except that the hearings showed there has not been any such discrimination (see below).

HARRISBURG, Pa. (AP)—A bill that would relax the qualifications for employees at religiously affiliated child-care centers in Pennsylvania won the approval Tuesday of the state Senate Education Committee as lawmakers waded into a dispute between the state government and the Roman Catholic Church. The bill passed 9-2, and the committee chairman, Sen. Jeffrey Piccola, R-Dauphin, called it an effort to firmly and clearly send a message to the Department of Public Welfare that it must back off regulatory language that church lobbyists worry could be used to encroach on religious freedom. Aside from easing education and training requirements for the facility staff—anyone from a director to a 16-year-old employee—the bill also would transfer oversight of religiously affiliated child care facilities to the Department of Education. A lobbyist representing the Pennsylvania Catholic Conference told committee members that the aim of the bill is to limit the authority of the Department of Public Welfare to impose rules that do not concern health and safety.

The lobbyist, Philip Murren, acknowledged that the department has not encroached on religious liberties. But he said cease-and-desist orders from the welfare department are pending against 14 religiously affiliated child care facilities because they refuse to submit to a licensing process that they believe involves rules outside of health and safety concerns.

A Department of Public Welfare spokeswoman said Tuesday that the administration of Gov. Tom Corbett supports religious freedom in school and child care curriculum.

"But the governor believes it is also important to ensure the health and safety of our children," spokeswoman Carey Miller wrote in an email. "This is why we have health and safety regulations in place for the protection of our children in child care settings."

All that is really happening here is a kind of opposition to government regulation, no different from opposition in Utah to the requirements of a license to braid hair. Such opposition may be good policy, but it has nothing to do with religion.

So what? What difference does it make that religious institutions are using religion for more general policy disagreements? What difference does it make that opposition to the contraception mandate is closely connected to opposition to Obamacare for policy and political reasons?

Just this. Religion is supposed to be special. And as it ceases to be special and becomes just another, usually conservative, interest group, religion loses all authority and power to change individuals and society. This misuse of religious exemptions is part of the general decline of religion in America.

Or, to put it another way, some religious believers object to conscience clauses because they treat religion as just another form of conscience. Stephen Carter called it making religion into stamp collecting. But now we see that it is religious believers who are becoming stamp collectors by making religion into a political interest group.

Title: Having It Both Ways on the Iranian Fatwa

Date: 2012-06-25T06:38:00.000-04:00

6/25/2012—Ayatollah Ali Khamenei, the leader of Iran, was reported to have issued a fatwa against the production, stockpiling or use of nuclear weapons in 2005, according to an official Iranian statement issued in August of that year at the Vienna meeting of the International Atomic Energy Agency. Since that time, Iran has argued that this fatwa should convince the world that it is not seeking to produce nuclear weapons. Although the US has given the fatwa favorable mention from time to time, no one on the international scene concerned with the Iranian weapons program considers it binding and sufficient. The reasons given for this include the fact that any fatwa can be rescinded and that under certain circumstances it might be acceptable under Islamic thought that a lie be told to protect the community from the hostile acts of outsiders. But there is another reason for skepticism. Many observers consider the Iranians to be motivated by self-interest and not by religious doctrines when it comes to national security. As Nader Hashemi, an Iran analyst at the University of Denver, said recently on NPR, “just like all other political leaders around the world, the supreme leader’s decisions and utterances are fundamentally political.” I know very little about these matters. I am interested in the question of why Iran’s having the bomb poses what some in Washington and Israel, including apparently the Prime Minister, Benjamin Netanyahu, consider an existential threat to the existence of Israel. Why should that be, exactly? Iranian leaders know that the use of a nuclear device against Israel would mean the complete destruction of their country through Israeli nuclear retaliation. No rational person would use such weapons therefore except in a situation of final self-defense. Just as the mere existence of Soviet nuclear weapons aimed at the US was not an existential threat to America, a rational Iran would not pose such a threat to Israel. I assume that the underlying assumption is that the Iranian leadership is not rational in this way. Maybe that is the case, but if it is, it can only be because they are religious fanatics who would just as soon see their country destroyed in martyrdom against the Jewish occupier of Muslim lands. But would such fanatics play around with a religious injunction, like a fatwa? Maybe. Yet you have to wonder. And they certainly would not do so in the cynical fashion that has been portrayed. An Iranian bomb is certainly a danger in the world that the world is right to try to prevent. But the danger is war. There is no sense in going to war to prevent war. And the idea that the existence of an Iranian bomb is itself a declaration of war, in effect, is a dangerous exaggeration.

Title: Materialism, the Supernatural and the More

Date: 2012-06-28T07:06:00.002-04:00

6/28/2012—Last Sunday, I went to our Unitarian Church to hear a talk from one of our neighbors about his atheism. For him, atheism means the absence of the supernatural. There is no God who creates and does tricks with the laws of nature. Human existence is explainable in terms of the Big Bang that starts everything and evolution that then develops everything. Religion's evolutionary advantage was cooperation and control. But now religion has become counter evolutionary as we become one humanity and is the source of most (all?) of our problems. He goes to church because it makes him feel good and he loves his daughter and hopes that people remember him fondly after he dies. Aside from the normal atheist error about religion and conflict—which to be fair, was acknowledged in the talk—that people do not so much fight about religion as fight about everything including religion, I did not disagree with much that my neighbor had to say. The problem lay in what was left out, what Brook Ziporyn calls the "moreitivity" of everything. All that has power, depth and interest was left out. All mystery—for example, why does the universe select for empathetic meaning seekers like us? And why do we feel that what we do matters? Or, as the character says in *City of God*, why do we live in moral consequence? I am describing here the flatness of atheism as currently understood, even leaving aside what the God myth might mean apart from simple supernaturalism. The problem in philosophical terms is the criticism by Ernst Cassirer at the time of the coming of Nazism in Germany. As Raymond Barfield describes in *The Ancient Quarrel Between Philosophy and Poetry* (p. 176), Cassirer argued that "any complete philosophy must begin with a philosophy of myth." The Nazis combined the power of myth with the weapons of industrialization to create something monstrous and powerful. Myth is the origin of meaning and language. It cannot be defeated but must be acknowledged and—what?—tamed? Used? How? Through the free imagination. But this does not happen when our best minds dismiss the romance and importance of the a-rational. This kind of atheism will never build a civilization.

Title: The Significance of the Obamacare Decision

Date: 2012-07-01T07:29:00.001-04:00

7/1/2012—Well, it means we get national healthcare, as long as the Medicaid expansion drop-outs don't derail the program. And the conservatives are right to rejoice that the very fact that anyone had to care about the Supreme Court means that the conservative way of thinking about policy, which is outdated, now dominates. That is not the end of the world except that there are people who want to rule the New Deal unconstitutional and some of them are on the Supreme Court—many are in law schools. Now we have to take them seriously. On the other hand, the decision is totally insignificant. Five Justices held that the federal government cannot order you to enter a market. Except of course that they did not do that—you still have to buy insurance if you want to drive. And everything except healthcare is actually like that. So when will this momentous rule be applied again? Probably never. Five Justices also held for the first time that Congress had unconstitutionally coerced the States through its spending power. Well, the Medicaid spending cut was extreme. But some of the Justices will now try to overturn previous spending incentive cases. What is needed is a dramatic expansion of central government power to avoid these constitutional problems. If Congress had just created a single payer system backed by federal taxes, none of these constitutional issues would have arisen. The Obamacare decision is really a blow against mixed systems—States and the federal government and the federal government and the private market. In those terms, the decision may one day have the opposite effect from the one conservatives anticipate.

Title: How to be Religious

Date: 2012-07-04T04:15:00.003-04:00

7/4/2012—Happy Independence Day. There is a new translation of Martin Heidegger's great work, Contributions to Philosophy (Of the Event), by Richard Rojcewicz and Daniela Vallega-Neu. If you want to glimpse the future, look at it. I had tried years ago to read Contributions in an earlier translation and it had proved impossible. Richard's new translation is marvelous. You hear Heidegger's voice. My teacher says of Heidegger, he is showing us here a way to yet be religious. And that is indeed the issue. Heidegger lays aside all of our stale religious issues—the existence of God/the rational life. Heidegger tells us, the "genuine believers" are the "questioners." (12). I want to share with you a public document. It is the course description of Religion and Law and Philosophy of Law at Duquesne this coming year. It shows you what is possible under Heidegger's influence. The courses will be taught by Robert Taylor.

***** I am delighted to announce that I will be offering two courses sought after by students for this coming academic year (2012-2013): Religion and Law (Fall Semester) and Philosophy of Law (Spring Semester). Each is a two-credit course with a take-home exam. For Religion and Law, no books will have to be purchased as materials will be supplied. No culture or society exists or has existed without religious foundations. Therefore, in this course, we will consider various universal religions of the world as they shape the ways of life of a people (not limited to, but including their way of lawyering and law itself). But for us today, religion either comes far too easy or much too hard. Accordingly, this course explores this state of affairs, particularly as set forth in the thinking of one of the greatest thinkers of our modern age, indeed of any age, the philosopher-poet Martin Heidegger. In Philosophy of Law, we will consider the way or paths by which we see and that what we see is, in turn, determined by how we see from the paths we are on (including, but not limited to law). This will require the purchase of a book by the philosopher Martin Heidegger entitled "Country Path Conversations". (Able to be purchased on Amazon.com or can be ordered in our bookstore) Let me put the foundations of both courses quite simply. In Religion and Law we ask the question: To what do we actually belong? In Philosophy of Law, on the other hand, we focus on the question: Just how do we belong to that which we actually belong? Both questions are what determine what holds sway and thus governs us as we human beings pursue our path of life in general and law in particular.

Title: If the Higgs Boson Particle Affected Capitalism

Date: 2012-07-08T17:19:00.000-04:00

7/8/2012—Have you considered that the alleged discovery of the Higgs Boson particle might be a hoax perpetrated by scientists who get larger grants if they can claim to have discovered it? How about the fact that no one has actually seen the HB and yet they claim that they have found it? How come no scientists who oppose the HB have been interviewed? If corporate profits were somehow involved in finding the HB, that is how the news would have been reported that the particle had been found. And there would have been a critic of the report of the found particle prominently featured in all the stories. The actual reports about the HB demonstrate the way we usually relate to science stories. Most of us know nothing about the HB and the process by which the evidence was evaluated. Apparently, it was a delicate process and it took awhile to be sure. This week's hot weather is a reminder that global warming has not gone away. But in the case of global warming, corporate power is working very hard to sow doubts. There is a report today that, although more Americans than ever believe that global warming is happening and that humans are causing it, fewer than in 2007 consider it important. This is the result of our politicians not sounding warnings. Naturally, people take that to mean it is not important. And as for all those people who love to point out that it gets hot every summer and that this heat is not quite unprecedented, that is true. The face of global warming is not just heat and melting ice. It is also the absence of record cold. When was the last year of global below average temperatures? I don't know the answer. But since global monthly average temperatures have been above the 20th century average for 327 consecutive months (see NOAA website), it had to have been over 27 years ago. Boy, is that a coincidence! Greenhouse gases go up and temperature goes up.

Title: What is Law School For?

Date: 2012-07-12T04:06:00.002-04:00

7/12/2012—There is all sorts of angst around law school these days. Too much debt. Too few jobs. So law schools are trying to reinvent themselves with skills courses and such. They want to be job ready. Except, what is the job? It is clear enough that many law school graduates will work for law firms, but many will not. And in any event, what do we want law and lawyers to do? The task has been clear all along, but we have lost sight of it. The purpose of law is to bring peace. Of course one way to bring peace in society is to resolve disputes. But that one aspect of law has come to dominate everything else. Another way to bring peace is to avoid disputes. There are many techniques for that in individual arrangements. They are known as deal making and getting to yes. We should be training lawyers who are looking to maximize everyone's opportunities. And good fences, too, which make good neighbors. The same is true at the macro level. Of course at that level, there is no peace long term without justice. So law schools need to be training lawyers in the design of just social arrangements. These have always been the goal of law schools. It is how the common law understood itself (though the language might have differed). And in the 1950's law schools even spoke of social engineering. So there is nothing utopian about this or trying to become relevant. Law schools have just forgotten what they were always about. These are the skills we need to be teaching, not the skills particularly that are currently being hyped.

Title: Our House

Date: 2012-07-15T16:06:00.001-04:00

7/15/2012—There was a story in yesterday's Post-Gazette about cooperative householding by three women in their 60's who found themselves "divorced, leading active lives with full careers, living by themselves but never lonely." They faced the problem of aging and retirement on their own and decided to buy a house together. They now live together but separately. The story can be found here. The three have just self-published a book about their experiences entitled My House, Our House. I'm sure you can find it. The story tells us a great deal about our society. For example, these three are not life-long friends or family, as would have been the case in years past. After all, women have always outlived men and even without divorce women faced similar issues in the past. But in the past, the expanded household would probably have included mostly family members of one kind or another. Second, there are a lot of legal/financial issues involved in a Tenancy in Common deed for the house and a voluntary association to pay all the house-related bills. For one thing, when one of the three dies, the share goes to heirs, not to the other owners. That may mean that the home must then be sold. Third, there was no mention in the story about children or grandchildren. No one from the outside can move in, so the whole notion of a child needing a place to live for a time could not be accommodated. For that matter neither could a new romantic relationship. All in all, it is a unique mix of the communal and the individual. It is the sort of thing that is invented when close neighborhoods and families are rarer than they used to be.

7/19/2012—There is no alternative to capitalism currently on the table in American or the West. The countries that do not follow a basically free market practice some form of crony capitalism, like China and Venezuela. That is not really an alternative. The other international model is just some kind of protected area, usually agriculture. That usually just leads to inefficiency. So, debates about economics tend to be about relatively minor matters—should tax rates go back to 27 or 35% for the wealthiest, for example. Or, should we have single payer health insurance? There are people thinking about alternatives. For example, Erik Olin Wright's book, *Envisioning Real Utopias*. But, even that is not as radical as it sounds. Listen to how a May 2012 program at the London School of Economics described the project—"Wright argues that we can be simultaneously utopian and practical by pursuing projects for social transformation within capitalism that point us in an emancipatory direction beyond capitalism." Because capitalism seems so entrenched, any debate about it is welcome. And such a debate is breaking out in the US because of Mitt Romney. The debate began with Occupy Wall Street. And that was sparked both by poor economic performance and increasing income inequality. But it was not really a debate, just a spasm. The debate today is just a fortuity. Romney just happens to have been associated with the finance sector. He happens to be the Republican candidate for President. Obama happens to be opportunistic enough to raise any issue that might help him. Romney happens to have earned income from Bain Capital. even when he was not working there and happens to have stashed the income in a Swiss bank account and was involved in financial activities in the tax havens of Bermuda and the Cayman Islands. Suddenly, a debate is breaking out. Yesterday, David Brooks in a column published in the *Pittsburgh Post-Gazette*, that the GOP must defend modern capitalism. Brooks says that Obama's attack ads, "and the rhetoric the campaign is using around it -- challenges the entire logic of capitalism as it has existed over several decades. It's part of a comprehensive attack on the economic system that Mr. Romney personifies." And today in the *New York Times*, Paul Krugman argues that such a debate would be good—"we're hearing a lot of people—including some alleged progressives—declaring that you can't criticize the way we've run our economy for the past 30 years—Why not?" Krugman recognizes, as Brooks does not, that Obama is really just criticizing the excesses of finance capitalism, not the underlying system. But still, debate is debate. I don't know what will come of this. Probably nothing. But if you had suggested a few years ago that capitalism would itself become an issue, you would have sounded crazy. So this is at least progress.

Title: What is Religion?

Date: 2012-07-23T07:27:00.000-04:00

7/23/2012—Greetings from Penn Yan, N.Y. This summer I have been writing in law and religion, mainly the Free Exercise Clause. At the same time, I have been reading with my teacher the Contributions to Philosophy by Martin Heidegger (the new translation—see below, July 4). Both activities raise the question of just what we mean by religion. In constitutional law, this issue comes up when religious exemptions are proposed for religious objections to various laws. This is the issue right now over the contraception mandate in Obamacare and religious employers, like Catholic hospitals. But the issue also arises in Heidegger, who writes of the play of the fourfold—earth, sky, mortals and immortals. Heidegger writes constantly about the gods and their interplay with humanity. We do not know whether the gods are near or far, coming or going. The long Christianization of the gods is part of the forgetting of being that has characterized the West. This has to do with turning being into a being. I cannot claim to understand Heidegger exactly of course. But I do see that what we call God is very much a being—the supreme being, in fact, who is no different really than a large-scale human. (This point has been made in other contexts by Christian critics, who see how people treat God as idol worship.) I could not tell you whether the gods are “real” in Heidegger, only that the question is false to his thinking. It is like asking whether beauty is real. Or the inspiration of creativity. Heidegger is teaching us about the deepest mystery of reality. And I could not tell you whether this is religion, or philosophy, or poetry. Somehow, that mix needs to inform our pedestrian debates about religion in public life.

Title: Why Hasn't Ross Douthat Ignited More Debate Among Religious Liberals?

Date: 2012-07-25T16:06:00.002-04:00

7/25/2012—The reaction that I have seen so far to Ross Douthat's book, *Bad Religion*, and to his column about the weakness of liberal religion (*Can Liberal Christianity Be Saved?*), suggest that we non-Christians are incapable of self-examination. Douthat's basic thesis is that orthodox Christianity is better religion—or spirituality, or atheism, or whatever we mean by religion—than is anything else around. He proceeds to dissect all the alternatives to orthodox Christianity and shows what is wrong with them. His effort is great. I'm even inclined to say very helpful. It can show us—and obviously I include my own efforts and thoughts here—where we have fallen short and where liberal religion needs to go (it needs a new word, for one thing, since not all of the people who have left orthodox Christianity consider themselves religious). The reactions to Douthat seem to divide into two groups. First, the Episcopal Church—at which his column was primarily aimed—tries to engage him (see response by Bruce Epperly). And this is also true of other liberal Christians—like Evan Derkacz, the editor of *Religion Dispatches*. But others at *Religion Dispatches*, as an example, dismissed Douthat as pining after a world gone by. That criticism is quite right. Douthat believes we should all do what he did and become Roman Catholics. But that is not an option for most of us. Not only is Roman Catholicism unjust in some ways—not ordaining women and opposing gay marriage—its ontology is not plausible. Science has demonstrated that reality is based in the material. So, for example, consciousness is what the brain does. Without the brain, no me. But orthodox Christianity teaches that I as recognizably me can transcend my brain. Since I don't believe this, I cannot be a Christian. End of story. This reality is in part why we have become a nation of heretics—not accepting the entire orthodox Christian message. But this should not be the end of our consideration of Douthat's book, but only the beginning. Douthat's criticism is not primarily aimed at liberal Christianity, which he rightly views as culturally beside the point. His criticism really is of the nonchurched and of religious nationalists. The former are the Eat Pray Love Type. I am one of these. Is his critique of us true? Douthat says we are narcissistic and undemanding. So, what are we going to do about it?

Title: The Renewal of Christianity

Date: 2012-07-31T07:16:00.003-04:00

7/31/2012—At the end of his excellent book, *Bad Religion*, Ross Douthat raises the question of the renewal of Christianity, essentially in America. Now, while I can see that Douthat does not entirely understand Christianity—he fails to come to grips with its historical evils, for example, and is a little too happy to invoke mystery that one does not sense really challenges his rational side—he has a good feel for what is important and what is not in any religion. Douthat writes that renewal must come from holiness and beauty. If the Church—remember, this is really a defense of Catholicism—cannot inspire holiness and beauty in her followers, then Christianity is moribund. But this is not just true for Christianity. It is true for secular civilization as well. There is a reason the E.L. Doctorow's character in *City of God* called for a "hallowed secularism," one at home with the sacred. And that is why I so named my book and this blog. If secularism is to flourish, it also must engage the holy and the beautiful (I failed to engage the beautiful in my book). How? The art of secularism is neither truly beautiful nor at all holy. Think for example of the art of Andy Warhol or Damien Hirst. Julian Bell rightly entitled his review of the Hirst exhibition going on in London, *Brimming with Sheer Cheek*, in the *New York Review of Books*. This is witty art. At its heart is a fear of death, but no response to death. What is the holy in secularism? Is it just opposition to the superstition of religion, freeing the human mind? Certainly it is that. But those pictures from space and of space—they certainly inspire awe. They are beautiful and they somehow suggest our place in the universe. To this, the monotheistic traditions respond, but what about me? Does the universe care about me? Here we see the harm that monotheism does. The answer is no, in a sense. There is no person there in the form of the universe to love us like a parent. But the universe certainly cares for us and provides for us. It is our genuine home. In any event, these are the questions a renewed secularism must ask, along with Douthat—where is the holy and the beautiful in our lives?

8/4/2012—I am presenting a paper in October at Elon Law School on the subject of religious exemptions from the requirements of law. Religious exemptions are the place where America currently debates the value of religion. As Douglas Laycock once put it, religious believers tend to think all claimed religious exemptions should be granted while nonbelievers seem to feel that they should generally be rejected. There are some exceptions. Austin Dacey, for example, in writing about blasphemy law as a nonbeliever in any organized religion—*The Future of Blasphemy*—can still appreciate the importance of the sacred. Because of the tendency to either/or thinking and a kind of religious partisanship, the debate over exemptions has been very divisive. What is needed is a new starting point. The problem is the idea that religion is some kind of separate endeavor, only for some, which is how both sides look at religion. This leads the nonbeliever to minimize the significance of religion, as if it were like any other interest group. Why should any group be outside the law? For the believer, the image of religion as separate leads to a defensive posture and us/them thinking. We believers are under attack and must get all we can. Compromise with nonbelievers is heresy. A new starting point would suggest what is the case—that people are generally engaged in a search for the meaning of existence. And that we are looking for the truth of existence, not a matter of opinion. Yes, most people call this the search for God. But even among this group, God is not a thing to be grasped. And for those of us who do not regard the search in terms of God, we are looking for the ground of being (even if that ground turns out to be groundless, as Martin Heidegger asks). But of course, “ground of being” is precisely the term Paul Tillich used for God. That just shows how close we all are, how much common ground there is. A perspective of common ground would lessen our tendency to reflexive support and opposition to claims of religious exemption. For the nonchurchgoer, that would mean respect for the traditional religions, which have helped so many in their quest for the meaning of existence. And it would suggest a generosity toward assertions of religious exemption. For the traditional believer, the common ground would move the issue of exemptions away from the question of exclusive truth, toward recognition of the harm that exemptions can do and the need for adjustment in the public square. Overall the recognition of common ground would aid us in the formulation of compromise in the area of religious exemptions.

Title: The Response to David Niose

Date: 2012-08-08T04:22:00.001-04:00

His book, *Nonbeliever Nation: The Rise of Secular Americans*, has just been published by Palgrave Macmillan. The premise of the book is that Secularists are now an important force in American politics and they are beginning to resist religious, especially conservative religious, power in society. In full disclosure, PM sent me a free copy of the book to review and blog about, which I will do in the future.

As part of the book's release, Niose wrote an op-ed published in the Pittsburgh Post-Gazette. Below is a letter to the editor published in response:

I read the Forum article by David Niose, president of the American Humanist Association ("Rise of the Secularists: They're Fighting Back Against the Overbearing Influence of Religious Conservatives," July 15).

It's very simple. Some members of society are focusing on evil rather than on God. Jesus said to Simon the Apostle, "and I say to thee: that thou art Peter; and upon this rock I will build my church, and the gates of hell will not prevail against it" (Matthew 16:18). We can trust in Jesus and not in people like David Niose.

We see every type of evil being done in the world today, including the recent mass murder at an Aurora, Colo., movie theater.

Society should seek out God, who is all loving and good, and reject those who look to squelch the profession of God our creator.

Conservatives and all believers in God should stand up against atheism and secularism at every turn. Believers need to show nonbelievers the way to the Lord if we are to change this world for the better. God created all human beings to know Him, to love Him and to serve Him. Let's give back to God and glorify Him forever.

This letter to the editor demonstrates two points. First, when God becomes an object of support and opposition, very much like a political candidate, bad things happen both politically and theologically. Politically, if elections turn on pro-God and anti-God, pro-God will win every time for a very long time into the future. Plus, the sides in such politics will have to despise each other on very deep levels, rather than just disagree on certain issues. Niose invites just that kind of politics: divisive and unhealthy.

Second, what does it mean to stand up to atheism? Atheism is often a theological critique of a corrupted conception of God. This was true of Ludwig Feuerbach (1804-1872) who wrote in *Essence of Christianity* that Christianity "while lowering God into man, made man into God."

Believers should ask whether the recent surge in atheism has something to do with a simplistic presentation of divinity and the sacred. There is an old saying that the God you don't believe in, I don't believe in either.

Finally, the writer of the letter wants to campaign against atheism. But as Ross Douthat recognizes in *Bad Religion*, that is not how Christianity can renew itself. The early Church came to prominence in the Roman Empire by the quality of its counter-culture. Christians were admired. They were known by their fruits. Christians in America have to do the same thing. Christians testify to the power of God by how they live.

Of course Christians have as much right to participate in politics as anyone else. But when religion becomes politics, it is no longer religion.

Title: One Way of Understanding Contributions to Philosophy

Date: 2012-08-11T00:23:00.000-04:00

8/11/2012—I am now reading *Contributions to Philosophy*, Peter Gordon's marvelous account of the 1929 debate between Martin Heidegger and Ernst Cassirer. Under its influence I have come to one possible understanding of the meaning of *Contributions*, which I am studying as well. *Being and Time*, Heidegger's shattering 1927 restatement of the human condition, was an indictment of the complacency through which historical human being—Dasein—had forgotten the question of being. Six years later, in 1933, Heidegger would join the Nazi Party. This action was not unrelated to *Being and Time*, but it was not, as some critics would maintain later—that Heidegger's philosophy was fascist. While something in the Nazi movement, and Hitler's charisma, obviously spoke to Heidegger's understanding of the call to resoluteness, the fact that by 1934, Heidegger was drifting away from the Party shows that he saw an error in his earlier political commitment. Even from my short exposure to *Contributions*, I have felt the intensity of Heidegger's probing of the question of being. *Contributions* is moving toward a non-political kind of confrontation with the complacency of bourgeois life. If you will, the relationship between *Being and Time* and *Contributions* is like the differentiation in Islam between the outer and inner Jihad—though *Contributions* is not as personal and individual as the differentiation of outer and inner might imply. Heidegger's thought remained always illiberal. He did not see the rule of law, democracy and capitalism as redemptive. I believe this is why Heidegger never could apologize for his Nazi involvement. He did not want to strengthen in any way the power of liberal life. An American is tempted to dismiss any illiberal tendency as an invitation to a Hitler. But from Heidegger's perspective in 1927, it might have seemed that it was liberalism that had invented the machine gun and poison gas of WWI and liberalism that had not only reduced Europe to a killing field but then hypocritically condemned Germany alone for actions other countries had previously taken and took a devastating revenge at Versailles. There is real violence here. So the choice is not between pacific liberalism and violent fascism. Lest we condemn Heidegger too easily, let us also remember that the bomb at Hiroshima was a product of the self-same rational liberalism. And so is the global warming that is already bringing death and dislocation and will only grow in the future.

Title: Experiments in Unbelief

Date: 2012-08-16T06:39:00.000-04:00

8/16/2012—A lot of ferment is going on in nonreligion these days. I read a story today in Religion Dispatches about Simon Critchley's new book, *The Faith of the Faithless: Experiments in Political Theology*. In the view of Beatrice Marovich, the author of the piece, "The Faith of the Faithless points to the ways in which religious ideas—theology—are still deeply (if crookedly) embedded in our politics, a convoluted situation for which Critchley has no simple solution. But he does suggest that old theological standbys (faith, hope, love) might still offer the freshest breath of air in our contemporary political situation. Critchley recently spoke with RD about atheism, Christianity, Occupy Wall Street, love, and other fictions of our so-called secular age." In the interview, Critchley criticizes what he calls "evangelical atheism" of the New Atheists. Critchley sees someone like Richard Dawkins as "just another progressivist, quasi-theological narrative. It's not the unfolding of God's plan but the unfolding of an evolutionary form of design." This insight shows the power of familiarity with theological sources. There is not much in the interview about what faith Critchley might actually have. Applying theological insights into political events is revealing, but is not a way of life. So Critchley says the Constitution was an appeal to the divine. Quite true in a sense, but what does it tell us about living? Critchley does say that his is a faith "that's not underpinned by any metaphysical entity, like God." But treating God as a metaphysical entity is a form of heresy from a Christian perspective (even though it is a massively common heresy). Critchley wants to come into the neighborhood of the infinite. Maybe, as Martin Heidegger might say, that is not a metaphysical neighborhood. Anyway, the fact that this comes out of Verso Press, the left-wing publisher, is a very good sign that the smug days of the secular may be ending.

Title: The Sacred is the Profane

Date: 2012-08-22T06:00:00.004-04:00

8/22/2012—Every day, it seems, there comes another indication of our vicious divisions over religion. Some group or business that never claimed religious exemptions before objects to a policy that they really oppose politically or some secular group finds religion to be irrational or dangerous, or both. Mutual respect is quite gone.

At the same time, there are efforts to dissolve the religion/nonreligion binary. One such effort will be published in October: *The Sacred is the Profane: The Political Nature of Religion*, by William Arnal (University of Regina) and Russell T. McCutcheon (University of Alabama).

I read about this forthcoming book on the CLR Forum at St John's Law School. Here is the book description by the publisher:

The Sacred Is the Profane collects nine essays written over several years by William Arnal and Russell McCutcheon, specialists in two very different areas of the field (one, a scholar of Christian origins and the other working on the history of the modern study of religion). They share a convergent perspective: not simply that both the category and concept "religion" is a construct, something that we cannot assume to be "natural" or universal, but also that the ability to think and act "religiously" is, quite specifically, a modern, political category in its origins and effects, the mere by-product of modern secularism.

These collected essays, substantially rewritten for this volume, advance current scholarly debates on secularism—debates which, the authors argue, insufficiently theorize the sacred/secular, church/state, and private/public binaries by presupposing religion (often under the guise of such terms as "religiosity," "faith," or "spirituality") to historically precede the nation-state. The essays return, again and again, to the question of what "religion"—word and concept—accomplishes, now, for those who employ it, whether at the popular, political, or scholarly level. The focus here for two writers from seemingly different fields is on the efficacy, costs, and the tactical work carried out by dividing the world between religious and political, church and state, sacred and profane.

As the essays make clear, this is no simple matter. Part of the reason for the incoherence and at the same time the stubborn persistence of both the word and idea of "religion" is precisely its multi-faceted nature, its plurality, its amenability to multiple and often self-contradictory uses. Offering an argument that builds as they are read, these papers explore these uses, including the work done by positing a human orientation to "religion," the political investment in both the idea of religion and the academic study of religion, and the ways in which the field of religious studies works to shape, and stumbles against, its animating conception.

There is much here for thinking. But the problem is the distance it reflects between the lived experience of religion and discussions of it. This is not an approach that will help heal us, which to some extent is presumably the goal of these two scholars.

Title: Abortion and Rape

Date: 2012-08-24T05:22:00.002-04:00

8/24/2012—As someone who considers himself pro-life, I have wondered about how the pro-life movement got itself in the position of opposing abortion even in cases in which the life of the mother is at risk or the pregnancy was the result of some form of coercion. It is hard to imagine anyone really wanting to force a woman to go through a pregnancy brought about by rape. So how did it become an issue?

Partly, this is the result of the irresponsibility of American political rhetoric. People often get to say really outrageous things without paying any price for it. I am only familiar with people doing this who are to the right of me on most issues, which is telling because I am sure that people on the right believe that people on the left are the ones playing fast and loose with facts. But I am thinking of global warming deniers, which is more or less the entire Republican Party. There is not any evidence for this denial but it goes on. (I am not talking about what to do about it, of course—one can make a case for doing nothing at all).

Todd Akin only said what many people in the pro-life movement want to believe—that women who are pregnant chose to be pregnant and therefore restricting the right to abortion is fair. It is just not accurate.

The other irresponsibility in American politics, and this is certainly true on the right and the left, is never admitting your opponent has any legitimate position. So we are all driven to extreme formulations and we rarely have any nuanced conversations. The overwhelming majority of women who want abortions did have a choice about having sex. So if that is relevant, it's something that should be talked about. But that conversation is now impossible, of course.

It is probably also true, although I have not seen it discussed, that Todd Akin believes that there is very little rape. That is what he meant by the phrase "legitimate rape". Having taught criminal law, I am sensitive to the prejudices around rape. Akin probably has in mind rape by a stranger. There is very little of such attacks in America. Almost every rape is an assault by someone the woman knows—I am limiting this to women only because the matter is abortion. Rape is any use of force or threat to have sex, in most jurisdictions. And there are lesser crimes for any act of intercourse without the women's consent, however it comes about. For Akin, much of that is probably not "legitimate rape."

But the greatest reason for this insistence about rape is the phrase that the child of rape is as innocent as any other child. Partly this view is the result of Catholic teaching on the soul and personhood. But partly this is just a deeply moral insight. There have been women who have come to love babies conceived through rape. It's just that this would be beyond the capabilities of most of us.

Having the baby of your rapist would be a form of moral heroism so high that it is scarcely imaginable. Perhaps religious authorities could think it legitimate to require that great a sacrifice, but how can a government do so? We never require that kind of sacrifice. Even when we draft people for war, we don't court martial soldiers for refusing to throw themselves on grenades. We reward the heroes who do sacrifice themselves with medals.

Law cannot require moral heroism. I don't doubt that the child of rape is innocent. But I know that if I were raped, I would do anything to end that pregnancy. So how could I treat anyone else differently?

Title: Davos

Date: 2012-08-28T15:00:00.001-04:00

8/28/2012--(The following are notes for a presentation I will be making in a Law and Religion class this fall at Duquesne Law School)

As the term is usually used in philosophy, "Davos" refers to a debate that took place in March, 1929, at Davos Switzerland, between the two leading philosophers in Germany at that time, Ernst Cassirer and Martin Heidegger. The debate was part of a larger Conference, known as the Davos Conference that was held to promote international understanding in the years 1928-1931. Cassirer and Heidegger gave independent lectures at Davos as well as engaging in what was referred to not as a debate, but as a seminar together.

The debate between the two philosophers took place on several levels. Perhaps most directly, the exchange and prior exchanges and future commentaries, (Heidegger published *Kant and the Problem of Metaphysics* in late summer 1929 and, in 1931, Cassirer published a lengthy, critical review of it), were all about the most fruitful way of understanding the philosophical legacy of Immanuel Kant, 1724-1804, who, since the late nineteenth century, had come to dominate German and continental philosophy under the rubric, "Back to Kant." Cassirer spoke for what had been the traditional way of reading Kant, known as various forms of neo-Kantianism. Though Cassirer differed in some ways from other neo-Kantians, in particular in his interest in knowledge of cultural symbolic forms, such as myth, art and ethics, all neo-Kantians regarded the *Critique of Pure Reason* to be a theory of knowledge—an attempted justification of the objectivity of human knowing of the world against the skepticism of David Hume in terms of the a priori conditions of human consciousness that make knowing possible. This was Kant's transcendental method.

Heidegger did not dispute this as a plausible understanding of Kant's own intention. But he disputed that this was what Kant accomplished. Prior to any mathematical/scientific understanding of an object is the nature of the existing human being (*dasein*) to receive the being of a being. Scientific knowledge is derivative on this knowledge of *dasein* and is not therefore objective in the sense claimed. It is dependent on the nature of *dasein*. Without *dasein* there is no truth. Thus Heidegger says that Kant brought us to the study of *dasein*'s capability of knowing being, though Kant may have drawn back.

On another, and related level, the debate concerned philosophical anthropology and its implications for the way to be of a human being. For Cassirer, the human being is capable of going beyond finitude through symbolic systems that enter into eternity and perhaps is obligated to do so. The human being is a world former. For Heidegger, this kind of philosophy constituted an evasion of what philosophy is. The human being is constituted through finitude, thrownness and radical dependence.

On yet another level, again related to the prior point, the debate was about the relationship of philosophy and theology. Cassirer represented the attempt by some neo-Kantians (many of whom were Jewish), to banish the themes of theology from philosophical study as a form of mysticism. This effort bore an uneasy relationship to Kant's overall goals, which included making room for faith. The neo-Kantians emphasized religion under the bounds of reason alone. Heidegger was accused by Cassirer of bringing religion back into the realm of philosophy.

The Davos debate, aside from its content, also represented a symbol of fundamental change in European life. By 1933, four years after Davos, Heidegger would be a member of the Nazi Party and Cassirer would have gone into exile. Thus, the debate assumed a mythic status, symbolizing the passing of a generational guard and the end of the enlightenment understood as a support for cosmopolitan, liberal humanity enjoying progress through scientific advance. Heidegger clearly threw all this into some kind of questionable status.

Despite this, neither Davos, nor the subsequent interchanges with Cassirer, support any clam of anti-Semitism against Heidegger. There are negative references to Jews in some of Heidegger's private writings, but Heidegger, when confronted, expressly and angrily denied any anti-Semitic attitudes. The significance of such denials at the time is that in the early 1930's in Germany, anti-Semites made no bones about it. They were only too happy to engage in anti-Jewish activities. So, while Heidegger's short and early involvement with the Nazi Party is certainly an embarrassment to him and perhaps to his philosophical insights, it does not taint them with anti-Semitism and, as far as I know, Cassirer never claimed that it did. (His wife, Toni, did make such a claim in her memoir).

Title: God Who?

Date: 2012-08-31T21:37:00.002-04:00

8/31/2012—Last Sunday, in the New York Times Magazine, Robert Worth published a story about “a preacher named Jerry DeWitt.” DeWitt lost his faith and no longer believed in God. He met Richard Dawkins. He became a kind of hero to the new atheistic movement. He joined the Clergy Project, which is an anonymous Web site for preachers, current and former, who no longer believe. The point of the story is the growth of the atheist and religiously nonaffiliated movement. But, on the other hand, the story is also about the cost of coming out as an atheist in the heartland. Actually, the impact of the story is somewhat different from what the author perhaps intended. When DeWitt and the reporter attend church in the hometown that has reportedly treated DeWitt so badly, the Christians seem really nice and not at all violent or vindictive. And it is DeWitt who comes off as at least a little unbalanced. He sort of stumbled into preaching and then sort of stumbled into preaching against God and religion. And without any real basis shown in the article, DeWitt has now become a crusader against religion in general: “religion is a speed bump in the progress of the human race.” But what is most surprising about the article is the absence of any engagement with the question of what the God symbol might represent and what might be the truth of that. The God concept that DeWitt embraces is a fully being-like God who does tricks. Having decided that this God does not exist, DeWitt does not ask what other kind of God concept might be possible. Nor does he explain what the lack of God means in terms of the nature of reality. Presumably DeWitt has embraced some form of materialism, but has DeWitt thought that through? It’s all just naïve self-congratulation, on all sides. Not much spiritual seeking going on.

Title: Hallowed Secularism Book Talk

Date: 2012-09-04T17:42:00.000-04:00

9/4/2012--For anyone interested, my talk last March at Yale Law School is now online. Many thanks to Samuel Moyn for his thoughtful commentary.

Title: Beating the Drums for War with Iran

Date: 2012-09-06T15:01:00.004-04:00

9/6/2012—I read today another call for an attack on Iran. This one was coyly entitled “Do You Believe?” by Abby Schachter in the Pittsburgh Jewish Chronicle and purported to be just a series of questions. But the import was clear enough—“Do you agree that Israel should be more concerned about Iran’s nuclear capability than the Obama Administration seems to be?”

Needless to say, nothing in the column suggested that the Obama Administration was anything but very concerned about the possibility of an Iranian bomb. What Schachter was criticizing was the unwillingness of the Obama Administration to give a clear signal that it will bomb Iranian weapons and nuclear facilities at some point at which Iran demonstrates the capability to build a nuclear weapon. That is what Israeli Prime Minister Benjamin Netanyahu calls a “red line” in the column, thus indicating Israeli intention to attack Iran.

But, let’s go beyond willingness to attack Iran for a moment. Let’s ask what consequences such an attack would produce and, conversely, what an Iranian bomb would mean?

The consequences of an attack would plainly be awful. Obviously, Iranians would die, but clearly so would Israelis and many others in retaliation. The Iranian government would become the heroic leader of the Muslim world. Muslim moderates would support Iran and the cause of democracy and any other Western oriented reforms, such as individual liberty and the rights of women, would be undermined.

All this might be worth it if an attack guaranteed that there would be no Iranian bomb. But, plainly that would not be the case. Saddam Hussein redoubled his efforts to develop a nuclear bomb after an Israeli attack on a reactor in 1981 and Iran would obviously do the same. But now, the entire Iranian people would support such efforts. It would be obvious that the US only attacks countries without nuclear weapons and not those like North Korea that have them. An endless repetition of attacks would have to follow.

Still, even all that would be worth it depending on what Iran would do with a bomb. Schachter meant to suggest that Iran would bomb Israel with a nuclear weapon as soon as it had the capability. That is the point of a quote like, “the existence of the Zionist regime is an insult to all humanity.” (Or for that matter a cartoon in the same issue with an Iranian leader stating that “All Jews should be killed and Israel annihilated” with a silhouette of a Nazi leader in the background.)

But is this so? Such a position suggests that Iranian leaders would risk a massive Israeli nuclear response to an attack that would kill millions of Iranians and destroy Iran as a functioning society. Are they madmen?

Plenty of Americans seem to believe the answer to that question is, yes. They are religious fanatics who would be happy to sacrifice their own people and country in order to carry out a religious obligation.

Perhaps this is so. But I remember other instances in which Americans were told that human life means nothing to some particular society. We were told this about the Japanese in WWII. We were told this about the Chinese in Korea. And about the North Vietnamese. It turns out that plenty of soldiers are willing to die to defend their countries. But I think we can all agree today that human life means a great deal to a Japanese or Chinese or Korean parent.

I don’t believe that human life has no meaning to the Iranian leadership. And I don’t know of any reason that anybody else believes that either. Yes, there are suicide bombers. They are willing to die for their cause. But I don’t see them taking their parents and children with them.

The Soviet Union promised to bury us. And aimed thousands of nuclear weapons at us. But we did not attack.

We lived in uneasy peace. We did threaten war to keep nuclear missiles out of Cuba. But in retrospect, were we right to do that? The Soviet threat is now gone. No war had to be fought to end it.

Title: Technology is Inefficient

Date: 2012-09-11T13:34:00.001-04:00

9/11/2012—First, let us remember 9/11. I was one who did not believe the attacks would fundamentally change the world, but they did so. In a sense we have never recovered. We have been at war in the Middle East since the attacks and now, with the tensions over the Iranian nuclear development effort, we seem close to another war. The terrorists of 9/11 would be pleased. They accomplished some of their goals. As for technology, Martin Heidegger famously said that technology becomes inefficient. Two examples of this have recently appeared. On September 9, 2012, Thomas Friedman published a column in the New York Times extolling teaching first graders how to program computers in Estonia. That's really great. How to turn kids into neurotics. But later in the column is the kicker. Friedman is describing how we all have to work harder and smarter. "I covered the Republican convention, and I was impressed in watching my Times colleagues at how much their jobs have changed. Here's what a reporter does in a typical day: report, file for the Web edition, file for The International Herald Tribune, tweet, update for the Web edition, report more, track other people's tweets, do a Web-video spot and then write the story for the print paper. You want to be a Times reporter today? That's your day. You have to work harder and smarter and develop new skills faster." Now we know why New York Times stories lack insight and creativity. Faster is not smarter. Usually, it is stupid. That same day, in the Sunday New York Times Magazine, there was a story entitled Searching for a Speed Limit in High-Frequency Trading, that explained that ultra-fast computer stock trading is causing tremendous problems for the stock exchanges and have been blamed for recent outages and crashes. Two critics "want to require H.F.T. firms to honor the prices they offer for a stock for at least 50 milliseconds — less than a wink of an eye, but eons in high-frequency time." It is not clear that they will succeed but they have already reminded everyone that technology is not perfect or even necessarily better. Reporters were more insightful when they had a little time to think. And that is even true of stock trading.

Title: A Philosopher Defends Religion

Date: 2012-09-16T15:50:00.003-04:00

9/16/2012—Alvin Plantinga has written a very important book on belief and nonbelief, entitled *Where the Conflict Really Lies: Science, Religion, and Naturalism*. Naturalism is the term that Plantinga uses for nonbelief—the belief that this world is all there is. His book is reviewed by nonbeliever Thomas Nagel in the most recent *New York Review of Books*. What is important for my fellow nonbelievers to note is that this brilliant philosopher and expert on the theory of knowledge is a believer and he thinks the evidence generally favors his view and that naturalism, not religion, has the difficult position to defend. I cannot do better than Nagel. Here is his opening: One of the things atheists tend to believe is that modern science is on their side, whereas theism is in conflict with science: that, for example, belief in miracles is inconsistent with the scientific conception of natural law; faith as a basis of belief is inconsistent with the scientific conception of knowledge; belief that God created man in his own image is inconsistent with scientific explanations provided by the theory of evolution. In his absorbing new book, *Where the Conflict Really Lies*, Alvin Plantinga, a distinguished analytic philosopher known for his contributions to metaphysics and theory of knowledge as well as to the philosophy of religion, turns this alleged opposition on its head. His overall claim is that “there is superficial conflict but deep concord between science and theistic religion, but superficial concord and deep conflict between science and naturalism.” By naturalism he means the view that the world describable by the natural sciences is all that exists, and that there is no such person as God, or anything like God.

Plantinga’s book is a more recent reflection on the old insight that what we think of as the scientific tradition took root in the Christian West, out of an interrelated set of beliefs that God made an orderly world that it pleased Him for humans to learn to understand. The scientific tradition is much more consistent in its fundamental aspect with that belief than it is with the nihilism that says that the world is a meaningless accident. To put this another way, if evolution is an unguided process, why assume that the structures that evolved are capable of reliably reporting on the world and on meaning? We might have had to identify a bear, but our ancestors never had to decide whether girl babies should be killed or slavery condemned. Nothing in evolution per se suggests a good answer. I’m not a believer, but this book shows how great religion can be and how problematic nonbelief can be—two very useful and helpful lessons.

Title: The High Holy Days Without Religion

Date: 2012-09-21T06:17:00.002-04:00

9/21/2012—We are currently in the midst of the High Holy Days, or the Days of Awe—the period between the Jewish Holy Days of Rosh Hashanah and Yom Kippur. This period has been of great spiritual importance in my life, but now I hardly notice them. The significance of the change points out one problem with a secular life. The notion of “good without God” suggests that the issue is whether nonbelievers can lead moral lives. Of course they can. But that is not the whole story. The absence of God is a problem of moral architecture. Is there a good to be? This is an important question and it relates to the work of Alvin Plantinga, below. But another issue is remembering or training to be good. This is the problem of the secular calendar. By setting aside a period of reflection, Judaism encourages self-criticism. This is true of all of our religions and it is not true of a secular life, at least not right now. Secular time is always the same. What we secularists need is a calendar that could give a rhythm of a life of good deeds and earnest reflection. But how will that come to be?

Title: What's So Bad About Technology?

Date: 2012-09-23T07:59:00.003-04:00

9/23/2012--In his interview with Der Spiegel in 1966, Martin Heidegger addressed the future. (He was 76 at the time and died ten years later). In the interview, Heidegger maintained what many would call his illiberal stance toward the pillars of bourgeois life: democracy, capitalism and the rule of law. These were not automatically redemptive for him. Here is one thing he said about democracy: "During the past thirty years, it should meanwhile have become clearer that the planetary movement of modern technology is a power whose great role in determining history can hardly be overestimated. A decisive question for me today is how a political system can be assigned to today's technological age at all, and which political system would that be? I have no answer to this question. I am not convinced that it is democracy." Today, many people would say that technology furthers democracy. We see social media, for example, at work in popular movements, such as the Arab Spring. So, what was Heidegger seeing? I just heard Todd Park (I think that was who it was), US Chief Technology Officer, speaking on the Commonwealth Club radio program, about how the opening up of medical data will enable patients to better manage their own healthcare. Patients have the right incentives, he said, and we have to trust them to improve their own lives. Now, liberals love this. But when conservatives say the same thing in terms of privatizing social security or converting Medicare to vouchers, then liberals see the problem. Maybe we are not all capable entrepreneurs. But what if the problem is not whether these policies work or not? What if the problem is thinking of ourselves as entrepreneurs at all? Thomas Friedman puts it well, although he loves it and does not consider it a problem: in a technological future (and present), those people who innovate will get ahead and everyone else will be left behind. Where in all this is any sense of human solidarity? Heidegger may have been seeing that democracy requires a kind of sense of the whole that technology weakens. And this may be true of nature as well as human community. It is telling that when Romney divided the world of who pays income tax, it was not so much heard, as once it would have been, in terms of character—the hard worker versus the lazy moocher (though there is still some of that). That is because, as Friedman says, in technology, hard work is not enough. Romney's remarks were heard in terms of makers and takers. Technology favors the few, the makers, the talented, the quick. It abhors the mediocre, the average, the stick in the mud. But the latter is almost every one of us. The most oppressive system you can imagine is the one in which average is not good enough. And that may be a technological regime.

Title: Tax Cuts Are Not a Policy

Date: 2012-09-26T05:57:00.002-04:00

9/25/2012—A friend gave me a copy of the Weekly, formerly the Weekly Standard, I guess. It is a magazine of the right. Its economic proposal is tax cuts. And the housing collapse was entirely caused by government housing policy. It had nothing to do with falsely rated mortgage backed securities or greed on Wall Street. No regulation of the banks is necessary. For the moment consider just the tax cuts. Permanent tax cuts are not actually a policy. Taxes are just the bill for spending. Tax cuts do not pay for themselves. If they did, why not just have a tax rate of 1%? The thinking behind this magazine knows this. Either the tax cuts are to be temporary or they are just a backdoor way to eventually slow the growth of government by cynically increasing the deficit. Of course, if they are temporary, that is the current Obama Administration policy, in the form of the current cut in the payroll tax. That is what we are doing now. It is not working very well. And it is undermining social security, which Governor Romney now speaks of means testing. Thanks anyway. Social security works. There is a reason that the right cannot mention payroll tax cuts. They do not disproportionately benefit the wealthy, for whom they are not significant. Although I have never heard this talked about, the idea must be that only income and corporate tax stimulate creative economic activity because these cuts benefit the job creators. But at the moment, the country is awash in money for corporations and the wealthy. The problem is demand. But I have never seen the payroll cut discussed by Paul Krugman either. We are already following his policy proposal to stimulate demand and it is not working very well either. Are our fundamental economic problems something else?

Title: Yes, You Can Be a Nonreligious, Nonzionist Jew, But What is the Point?

Date: 2012-09-30T07:17:00.000-04:00

9/30/2012—Judith Butler has written *Parting Ways: Jewishness and the Critique of Zionism*. I have not read it, but I did see Shaul Magid's [review](#) of it in Religion Dispatches (9/27). Here is Magid's core description:

"Parting Ways is Butler's attempt to construct a Jewish narrative that coheres with her philosophical and political sensibilities as well as her allegiance to her Jewish heritage and lineage. As a Jew for whom religious practice and the Jewish textual tradition do not constitute her Jewish core, hers is a secular narrative of Jewishness outside the orbit of Zionism. ...

Butler's alternative is a complex philosophical one, thinking with a disparate group of intellectuals who wrote as Jews but not directly about Jewishness at a time when Zionism still shared space with other forms of secular Jewish identity. Her figures are Emmanuel Levinas, Walter Benjamin, Hannah Arendt and Primo Levi. She includes Edward Said and Mahmoud Darwish as Palestinian voices that contribute to the concept of Diaspora and offer an alternative narrative of oppression that they share with the Jews—although ironically theirs is formed at the hands of Israel. Said and Darwish are present here for a reason—Butler's whole point is to show the extent to which Jewish values are Jewish only to the extent that they extend beyond Jews or Judaism. And the persecution of the Jews was wrong only if it is also wrong for those who live under Jewish power."

Now, the critique of Zionism could always be accomplished by a religious Jew. The point of Judaism is to keep the commandments of God in order to live a life of holiness that serves as a blessing to all the world, perhaps as a, or the, model for human life. One needs other Jews in community to do this, but there is no intrinsic need for a Jewish majority or a political entity that will support this vision. All Jews are engaged in God's project and in that sense, but not necessarily any other, the people of Israel must live in solidarity.

Once the religious aspect of this project is lost, Zionism attains a greater potency. Now, Judaism is a sort of storehouse of values developed historically that must be worked out in social and political forms. Now, it becomes understandable that one needs to build a specifically Jewish society.

Butler wishes to contest this. For her, the truth of Judaism is essentially diasporic. Judaism was formed in exile by the rabbis of Babylon and remains a universalist project. For Butler, Zionism is, perhaps inherently, or maybe just the particular policies of the State of Israel, particular and limited. In that sense, Zionism is not a healthy expression of the best of Judaism.

I don't enter into this debate. But I would say that I am a good example of the likely outcome of a project like Butler's. I was in her shoes—a Nonzionist, nonreligious Jew—and my response was to give up Jewish identity entirely. Why limit oneself to the Jewish tradition if the point of life is to express the best of humane, universal values? Of course, one answer to that is that in the end Judaism and all its particular expressions of universalism will disappear. But surely those values have to be lived out by people who believe in them.

Judaism can exist as a religion. It can exist as a society. But Judaism cannot exist over time as a philosophical system or secular, cultural expression within a larger whole. Judaism at that point has given over what it has to give and must disappear and be absorbed into a larger human whole. I don't mean to suggest that this future is "good" only that it seems to me inevitable. Butler is a Jew and I am not. But her descendants are not likely to be Jewish, any more than mine are.

Title: The Perks of Being a Wallflower

Date: 2012-10-03T22:23:00.000-04:00

10/3/2012—I admit I went to see if Emma Watson could really act. Yes, she can. This is one beautiful movie. And it reminds me of *To Kill a Mockingbird* in its ability to conjure a time in our lives and help us relive it. But the reason I mention the movie here is Stephen Chbosky's view of religion. Charlie, the main character, has a normal religious upbringing. The movie only makes fun of it once. But the love of God and Christ is absolutely no help to Charlie. None. Religion is so far away from anything real that the movie does not even bother to explore its emptiness. Instead, art is the only portal to the real. And the only thing real is the integrity of my own feelings. If you want to see the consequences of secularism, this is the movie to see. These are good people. But they are really all on their own. Even art is not given any content larger than human self-expression. Charlie does say toward the end of the movie that his pain is the pain of the world. But the viewer knows this is just a dodge to avoid confronting Charlie's own pain. Even Charlie's love for Sam is a reflection of himself—he says they are just alike. In contrast, religion finds salvation in embracing the pain of others. Not watching it. Embracing it.

Title: The Nature of Religion

Date: 2012-10-07T07:27:00.001-04:00

10/7/2012—Simon Critchley is chair of philosophy at the New School for Social Research in New York. He has written a new book, *The Faith of the Faithless: Experiments in Political Theology*, which is a serious contribution to the question of the content of secularism. Critchley is responding, says the book jacket, to the “return to religion”. Apparently, his response is going to be a kind of religion for nonbelievers in the traditional religions. So far so good. I would describe *Hallowed Secularism* in somewhat similar terms. (Except for the part about the return to religion, which I don’t see and seems irrelevant anyway). I am just now reading the book, which is slow going because Critchley is a real philosopher. (Now there is a distinction from me). But since one’s beginning point is one’s endpoint (Heidegger wrote that somewhere), I am alert to the starting point of Critchley’s understanding of religion. Here it is, after he tells the sad story of Oscar Wilde’s life in prison and after getting out. Wilde proclaims a sensuous religion, an aesthetic fidelity to “What one can touch and look at.” (from the book). Then Critchley interprets the implications of Wilde’s understanding. “It is the phrase ‘Everything to be true must become a religion’ that is most striking. What might ‘true’ mean? ...I think he was using ‘true’ in a manner close to its root meaning of ‘being true to,’ an act of fidelity that is kept alive in the German word *treu*: loyal or faithful. ...What is true, then, is an experience of faith, and this is as true for agnostics and atheists as it is for theists. Those who cannot believe still require religious truth and a framework of ritual in which they can believe.” This is an important paragraph in which Critchley is to an extent challenging Heidegger’s distinction between religion, which is premised on faith, and philosophy, which is not. (Or at least Critchley is claiming that philosophy is not really a full life). But is religion equivalent to faith? Heidegger also critiqued his own definition by adding that faith that does not question is not faith but indifference. At the very least, shouldn’t religion be thought of as the experience of the struggle toward faith? And upon what would that struggle be based, if not understanding? (Yes, I hear echoes of Anselm here also). In *Basic Questions of Philosophy*, Heidegger unfolds truth as grounded not on faith but on unconcealment. If religious truth is based on a kind of knowledge, then one still has a link—a shared life—between believer and unbeliever, but of a different kind from a link to faith.

Title: Living in a Dream World

Date: 2012-10-09T05:09:00.001-04:00

10/9/2012—I have a friend who is a Republican who asked me last week if I would vote for Romney if I thought he would do something about the deficit. I replied that I did not think he would but that I would probably not vote for him anyway. I am a pretty strong partisan Democrat. He then said that my views about deficits were rationalizations. I have to think about this. I have been amazed that so many Republicans, whom I think of as hard-headed realists, deny that the world climate is warming and/or that human activity is causing it. I find this amazing when the ice cap around the arctic is recognizably thinning and so much other evidence abounds—obviously rising temperatures over time in Pittsburgh, for example. Then there was the suggestion that the employment figures last week were tampered with. Those figures were not that great to begin with. But apparently politicians cannot tamper with them. And then there is evolution and geology. But at least those are based on religion in the face of science. But back to the question put to me. I have been assuming that the people I disagree with are more prone to do this, to deny bad news, than I am. What if this is not the case? Then I would have to begin to rethink those matters that I have been rejecting or ignoring—such as the role of government housing policy in the housing bubble. The left says it was all Wall Street. Was it?

Title: Simon Critchley Writes About Religion

Date: 2012-10-11T20:24:00.002-04:00

10/11/2012—In his new book, *Faith of the Faithless*, Simon Critchley writes about religion. But he is at pains to point out that he has not retreated from his earlier claim that philosophy begins in religious disappointment—that religious belief is not an option for us. (See 2003 interview [here](#)) In his new book he calls religious disappointment, “crudely stated, the death of God.” “When I talk about faith, it is not at all a matter of belief in the existence of some metaphysical reality like God. My conception of faith—as fidelity to the infinite demand—is not just shared by the denominationally faithless, or unbelievers, but can be experienced by them in an exemplary way.” I’ll pass by for the moment the restriction that Critchley imposes—that the infinite manifests through a demand, that is as ethics or law. That seems to me a monotheistic prejudice. For the artist, the infinite may manifest as invitation or lure. (And to the thinker?) Critchley does succeed in articulating a common ground of believers and nonbelievers—we all experience the infinite. The news that the nones now comprise almost 20% of the American population reminds us that we now have a sizeable segment of the population unmoored from traditional religion, but still experiencing the ultimate as demand. This opens up enormous possibilities for what the monotheistic religions call idolatry. Hitler answered the infinite demand faithfully through devotion to race and nation. Lenin to class. (Americans to the market? To God as a supreme being?) The point is that the religious traditions are very good at sniffing out self-delusion substituting itself for religion. I’m not confident that the nones will do as well.

Title: Politics and Religion

Date: 2012-10-15T12:28:00.002-04:00

10/15/2012—I am writing off and on about *The Faith of the Faithless*, Simon Critchley's new book about politics and religion. Critchley is attempting to change our starting point in assumptions about these two realms. Most people assume that they can be separated. Critchley is not so sure. Nor is he certain that such separation is positive. And he believes unbelievers can have religion. "Is politics conceivable without religion? The answer is obviously affirmative as the evidence of various secular political theories testifies. But is politics practicable without religion? That is the question. ...Can politics become effective as a way of shaping, motivating, and mobilizing a people or peoples without some sort of dimension—if not foundation—that is religious, without some sort of appeal to transcendence, to externality, to what we called...with Charles Taylor, 'fullness,' however substantive or otherwise that appeal might be. I do not think so." We can and must interpret these terms, of course. But I think the major issue is starting point. For Critchley, belief or faith is something available to most people, including atheists. And, it is a good, even a necessary, thing. This is what I think some--most?--secularists would have a hard time accepting.

Title: Is There A Difference Between Religion and Philosophy?

Date: 2012-10-19T05:21:00.002-04:00

10/19/2012—Speaking of the human being in Contributions to Philosophy, Martin Heidegger writes, “the essence of being as such, not the essence of the human being, contains in itself a call to humans, as a call destining them to history.” He also writes, “The most proper ‘being’ of humans is therefore grounded in a belonging to the truth of being as such... .” Now what is that? Even if the secular materialist finds the terms obscure—as in “what the hell is being?”—one cannot reject it as “merely religious.” I often come back to the McConnell-Feldman debate over religious exemptions and the meaning of religion (see December 13, 2011). But in that debate, Noah Feldman wanted very much to distinguish between religion and philosophy to show that they are equivalent. Michael McConnell wanted to show that they are different but that often what is called philosophy is actually religion. But what if there is no difference at all? What if there are just different kinds of religion? Here is how Bradley Lewis, a defender of religious exemptions and a pretty conservative Catholic, defines religion: “By ‘religion’ I mean the good of bringing one’s life into harmony, conformity or unity with what one takes to be the true order of the whole and its greater-than-human cause and the virtue that has this harmony as its object.” Now, since we did not cause ourselves to be, I presume the most fanatical atheist is quite religious under this definition. And if you believe that existence is a cosmic joke, think of harmony here as coming to terms with the true order of the whole.

Title: George McGovern, R.I.P.

Date: 2012-10-23T17:18:00.003-04:00

10/23/2012—Former Senator and Democratic Presidential candidate George McGovern died on Sunday. I have to break from commentary on the issues of the day to salute the man who inspired me to go into politics to pursue democratic change. He also got me into law school. I entered the Georgetown School of Foreign Service in the fall, 1970. A few months into my first semester, I became interested in the Presidential candidacy of George McGovern. I had previously worked as a volunteer for Bobby Kennedy and I had frankly caught the Presidential campaign bug. I don't know why I had no interest in Edmund Muskie. I would say today that he was a perfectly fine man and would have made a better candidate than McGovern, who, I should have known, had no chance of winning. Nevertheless, I started very early working for Senator McGovern, whom I never really met. My job for a long time consisted in going to the Senator's office late at night and using the free Senate phone line to make campaign related phone calls. (The ethics of this I neither knew about nor cared). Later, when the campaign really got going, these calls would consist of transmitting sound bites around the country, sometimes to supporters and sometimes to small radio stations. By the time the primaries started in 1972, I was a full-time, paid worker. My immediate boss was Joe Slade White, a great guy, who unknown to me has since gone on to fame and fortune as a political consultant. Joe worked directly for Gary Hart, who ran McGovern's campaign. (I didn't get to know Hart either). When you start early enough on a campaign, you get jobs you should not get. So, for a time, I travelled on the second press plane during the fall campaign, splicing tape for sound bites and doing the voice over. (This experience has proved valuable because it taught me what a short, clear statement sounds like for purposes of the media.) After the campaign, I went back to Georgetown. Then, when it came time to apply to law school, I asked Joe if he could get me a reference from the Senator. Joe wrote it up, Gary Hart got it to Senator McGovern and the rest is history. The letter was an accurate description of my contribution and made it sound like I was the perfect candidate for law school. There you have it. I meant to honor McGovern and ended up talking about myself. I will say this. We believed in him. Everyone who worked for him. And it was not charisma, like it was in 2008 for President Obama. McGovern had zero charisma. He was perhaps the most decent man to ever run for President. It is an honor to have helped him.

Title: Your Starting Point is Your Endpoint

Date: 2012-10-27T07:24:00.001-04:00

10/27/2012—Yesterday, I gave a talk as part of a panel at Elon Law School. The panel was part of a Symposium sponsored by the Elon Law Review. Articles are to follow. The title of the Symposium was Emerging Issues in First Amendment Jurisprudence: Interpreting the Relationship Between Religion and the State in the Modern Age. A lot of really good people and interesting commentary. But two observations as I pack to go back to Pittsburgh. First, law professors are not as a group concerned with the bigger picture of the areas they treat. The breakdown in civility manifested in this election season particularly in the very topic they were discussing was not on their minds, or at least not in their talks. This gave the talks a rarified, unreal air. Second, law professors are unaware or at least resistant to the suggestion that their basic sympathies decide everything about their scholarship. This was clear in the first panel. Harry Tepker of Oklahoma gave a terrific talk about the original meaning of natural rights and religion that suggested that prohibitions against gay marriage violate the founders' understanding of the separation of church and state. John Inazu gave a very good talk about the need for group pluralism in the constitutional system in order to promote liberty—in particular to protect the rights of religious groups for the good of society. They were fair and reasonable. But when asked whether the contraception mandate was constitutional, they were predictable. Tepker said yes. Inazu said no. All nuance left the building. Nor did they wish to reformulate the question or suggest some alternative approach. It was just a moment. But it reminded me that ideas and reasoning follow commitments. Not the other way around. Hume would not be surprised. Neither would Heidegger.

Title: The Upcoming Presidential Election

Date: 2012-10-31T03:46:00.003-04:00

10/31/2012—I am a partisan type, so the idea of a possible Romney victory fills me with dread. Yet I have a friend, a perfectly reasonable guy in many ways, who strongly supports Romney out of fear of the mounting deficit. He wants to cut spending. He is not a rich man and is not looking for tax cuts for the wealthy, which would not aid him in particular anyway. My friend's support of Romney reminds me of something reassuring. Why is the election so close? Obama did not do well in the first debate, but that is just one of those things. That would not normally have had so dramatic an effect. Nor has the President campaigned well. No real theme. But again so what? President Clinton was very popular and what was his presidency about? What was the first thing Paul Ryan said when he was picked as the Republican Vice-Presidential candidate? What makes you think the next four years would be any better under President Obama? And how did Clinton put it at the convention—their argument is we made a mess and they have not cleaned it up fast enough. Both Ryan and Clinton were saying the same thing. President Obama has not shown that his administration can get the economy back on track. My view on this is that it has been difficult, more difficult than I expected, to get the economy moving again. And I am positive that the spending cuts, tax cuts proposed by Governor Romney will make everything worse. Plus, unlike my friend, I don't believe the Republican Party wants the deficit to go away. I think all they want is lower taxes for the wealthy. But my point here is that the concern of the electorate that the next four years might not be better is not irrational. It is not the result of Citizens United unleashing corporate economic power. It is a perfectly fair question. So, the weight dragging on President Obama is the one that everyone knew would be a drag—a 7.8% unemployment rate—not the deficit and not anything else. Plus, that rate has not shown consistent improvement, even slow improvement. I am happy to support President Obama because I think he has done reasonably well with the hand he was dealt. I don't know of any other policies that would have done any better and cuts in Europe—Romney's policies—have done much worse. But I can understand how someone else might want to try an alternative. The election issue for the President is not debates or campaign style. I hope things go well next Tuesday. But however they go, the result will not show some fundamental quirk or flaw in the system. No person or mistake will be at fault. It will be a fair outcome either way.

Title: Accommodating Religion

Date: 2012-11-03T06:16:00.001-04:00

11/3/2012—According to the Catholic News Agency, (CNA), a second business has won a temporary injunction against the contraception mandate in the Affordable Care Act. The first such injunction was issued in July on behalf of Hercules Industries. (One company, O'Brien Industrial Holdings, lost its case against the mandate). On October 31, 2012, US District Judge Robert Cleland granted a preliminary injunction on behalf of Weingartz Supply Company, a family owned and operated outdoor power equipment company. At the same time, an injunction on behalf of Legatus, a non-profit organization of Catholic business owners and CEOs was denied for now because Legatus qualifies for a safe harbor provision the government is offering for religious groups that are non-exempt under the exemption. There are two sorts of issues being litigated here. First, Weingartz, though closely held, is apparently a corporation. That is not unusual among small businesses. The Judge held that a corporation can “assert the free exercise rights of its owners” when it is closely held and is “merely the instrument through and by which (the plaintiffs) exercise their religious beliefs.” The second issue is much broader. Can any merely for-profit business claim religious rights in the market against economic regulations. There are plenty of business owners who object to unions on religious grounds—or will soon do so. And what about government regulation in general? Didn't God grant the institution of private property? I am struggling with all this and I must admit that life is outdistancing my ability to formulate any proper response. Religious exemptions were the subject of my talk last week at Elon. But all I could say was that society really cannot function if businesses can gain economic advantage by claimed religious exemptions to regulations. It should also be remembered that this litigation is going forward under statutory exemption, in all likelihood: The Religious Freedom Restoration Act. So, all this is subject to legislative struggle. That is just what is going to happen. Secular attitudes toward religion are going to harden. So now add exemptions to our ongoing struggle over God-language in the public square. I fear for the future of our country.

Title: A Good, Not Great, Election

Date: 2012-11-07T06:11:00.001-05:00

11/7/2012—It was not a resounding vote of confidence in the President but a willingness to give him another try in the face of the serious problems he inherited. He will be judged by his ability to continue the slow recovery and then to put our fiscal affairs back in order. And President Obama won because of policies. He did bail out the auto industry and the industrial heartland rewarded him for it. The Republican Party proudly would have done nothing. The failures of the Republican Party were also about policy. One too many instances of unwelcomeness to Hispanics cost the Republicans, perhaps, Nevada and Colorado. And one too many maniacal references to God and abortion may have cost them the Senate. That, plus the willingness to jettison moderates in the primaries. It was a national decision even though Washington was left in somewhat the same position as before in the makeup of the national government. Good day to be an American, all in all.

Title: Time to Repeal Campaign Contribution Limits

Date: 2012-11-09T12:08:00.000-05:00

You can read my piece today in Huffington Post arguing that the money spent in this past election would have been better spent by the candidates themselves.

Title: Tuesday Was a Vindication of Hallowed Secularism

Date: 2012-11-10T06:39:00.001-05:00

11/10/2012—I guess this is obvious, but should be said. This past election demonstrated that the fundamental commitment of Hallowed Secularism—its understanding of where society is headed—was vindicated last Tuesday, with the success of same-sex marriage initiatives and the failure of the religion-based long-term strategy of the Republican Party. Here is the quote from today's New York Times: "This election signaled the last where a white Christian strategy is workable," said Robert P. Jones, chief executive of the Public Religion Research Institute, a nonprofit, nonpartisan research and education group based in Washington. For years, I have been saying that the secularization thesis has in fact not been discredited, despite many claims to the contrary, and we now see that this is correct. Especially among the young, religion, organized religion anyway, is in rapid retreat (though still quite formidable). This is why I said in the superscript of the book, addressing my children, "you will see a secular world." I take no satisfaction in this (well, maybe a little). It doesn't mean that society is headed to a good place. We now also have to think about the meaning of the post-secular, which is also touted today. The post-secular was meant to replace the secularization thesis. But it does not. What I now see it means—and I will have to expand on this—is the combination of my first book, *American Religious Democracy*, and *Hallowed Secularism*. That is, religion is not confined to the private sphere. It is everywhere in public and private life. But, in addition, more and more people resist it, are indifferent to it and reinterpret it. This just shows that our categories are too limited. Religion is something that concerns all of us, especially the secular. *Hallowed Secularism* was my first attempt at fusion.

Title: No, Corporations Do Not Have Religious Rights

Date: 2012-11-14T05:48:00.003-05:00

11/14/2012—It was inevitable, in a world in which Chevron gives millions of dollars to a Super PAC to distribute in political campaigns, that someone would eventually argue that corporations have religious rights. That someone is Hofstra Law School Professor Ronald Colombo, in an article entitled *The Naked Public Square*. I am going to read the paper, which may only argue that some people in small, tightly held companies, do business through a corporate form. No one would deny that such entities are not really corporate at all. The people involved should have the same rights as partnerships, whatever those are, in terms of religious exemptions. In addition, Colombo is pointing to an issue that is important, what he calls the expulsion of religion from the working world. So I will have to see whether he and I really disagree. But about the publically held corporation—Chevron—there can be no doubt. Such corporations exist to make money. They are not human and therefore cannot exercise that most human of undertakings, religion. The confusion comes, of course, from the suggestion that corporations have any constitutional rights at all. When, in the infamous *Citizens United* case, the Court recognized free speech rights in any corporation, it sidestepped the question of just who was doing the speaking. But constitutional rights inhere in people, not things. (Despite some environmental thought to the contrary). The Court could do this because the source of speech is only part of a free speech analysis. There is also the right of the people to hear. No matter what speaks, the matter spoken about and what is said is constitutionally valuable. But religion is different. Religion is significant primarily to the believer. And Chevron is no religious believer—of any kind.

Title: The Real Losers in this Election—Religious Voters

Date: 2012-11-17T07:13:00.002-05:00

11/17/2012 There is a lot of nonsense going around about why Obama won and Romney lost the Presidential election. Romney's gift comments are particularly funny when one considers the Republican commitment to tax and regulatory breaks for wealthy interests, who voted overwhelmingly in their financial self-interest for Romney.

Piyush "Bobby" Jindal, the Governor of Louisiana, apparently spoke a lot of sense at the Republican Governors Conference about the Party's harsh and dismissive tone, but it remains to be seen whether tone is actually central to Republican Party identity, rather than just an extrinsic style. Geoffrey Kabaservice describes the tone of the conservative movement as eschatological from the start, in his book *Rule and Ruin*, warning of enemies from within America since McCarthy in 1950.

In listening closely to responses to the election, I noticed two things. First, the economic commitments of the Party remain completely unshaken. This is the Party of small government and low taxes. But I did not hear the same commitment in terms of gay marriage, which many young Republicans apparently accept. Nor did I hear any talk about abortion.

I am speaking here of Republican responses, not responses from activists in the pro-life movement itself. And I do not mean that the Republicans will abandon a pro-life stance. But the comments about rape during the campaign were clearly a disaster. And they were connected to God. And the gay marriage popular initiatives were clearly a surprise.

There were immediate reactions to the vote that suggested that a white religious campaign would never again succeed nationally. That was the comment I referred to last Saturday by Robert Jones: "This election signaled the last where a white Christian strategy is workable."

The numbers do not entirely bear that out. The New York Times reported last Sunday that White Protestants made up 39% of the electorate this year. Meanwhile, the nonaffiliated represent only 12% of voters, well below their numbers nationwide (in part because they are younger and younger voters vote less). More to the point, weekly religious service attenders made up a huge 42% of the voters. They voted for Romney 59% to 39%. Evangelical voters made up 26% of the electorate, the same as 2008, and they voted for Romney in the same percentages as for Bush in 2004: 78%-21%.

In other words, appealing to religious voters still looks like a lot better strategy than turning them off. And there were undoubtedly a few religious voters who sat this out—and maybe sat out 2008 also. On the other hand, Romney did succeed in appealing to religious voters, much better than people thought he would, and he still lost.

More important than current numbers, however, is the trend. Religious voters are in decline and nonreligious voters are going up, or will go up. And if a more religiously identified candidate were running on the Republican side, the nonaffiliated might vote in larger numbers.

I would guess that the Republican Party, while remaining staunchly pro-life, is not going to be hospitable to a genuinely religious Presidential candidate—by which I mean a person who really puts God first and capitalism second. A Rick Santorum. That, I think, will be the lesson of 2012.

Title: The Tensions in Religious Liberty

Date: 2012-11-21T04:47:00.001-05:00

11/21/2012—During law school, I worked in a clinic-like program that protected the rights of tenants. During one semester, if I remember correctly, I worked on one case in which I used the laws of Connecticut to ensure that a tenant who had not been able to pay rent was not evicted. Because the tenant really could not pay the rent, this amounted to keeping the tenant in the apartment as long as possible by holding the landlord strictly accountable to all the procedural requirements of eviction.

Lawyers are doing the same today for homeowners who owe more on their mortgages than the houses are worth.

But it began to dawn on me even then that this was not the way to really help poor people. The landlord had not actually done anything wrong. So, the delay was not addressing any sort of problem other than the poverty of the tenant. Yet the landlord was not the source of the tenant's inability to pay the rent. So, I was just raising the cost of rental housing for everybody.

This is what happens when lawyers work only one side of a street. It is certainly proper for a lawyer to do this, but when an educational institution does it, you have to wonder what lessons are being taught. Is the clinic teaching the students the larger context?

I was reminded of my experience by the news reported on the [CLR Forum](#) that Stanford Law School is starting a religious liberty clinic to help religious believers achieve exemptions from general laws.

Here is a part of the announcement: "The clinic will offer participating students a dynamic, real-world experience representing a diverse group of clients in disputes arising from a wide range of religious beliefs, practices, and customs in a variety of circumstances. Students will learn in class and apply in practice the laws affecting religious liberty, whether statutory or constitutional, and will be expected to counsel individual or institutional clients and litigate on their behalf with technical excellence, professionalism, and maturity.

During the term, students can expect to handle a discrete accommodation project—e.g., represent a prisoner, student, or employee facing obstacles in the exercise of his or her faith—and likely also participate in a longer-term project involving religion in the public square—e.g., represent a small church, synagogue, or mosque with zoning issues, or a faith-based group seeking access to public facilities."

As the reader can see, the model is the believer facing the obstacles of secular society.

But is this the way into the future of religious liberty? Consider two scenarios. In the first, Buddhists challenge a cross on public property erected to commemorate the dead of WWI. Whose religious liberty is at stake here? In the second, a Catholic who does not follow Church teaching on contraception is denied insurance coverage because her University, which is Catholic, fights to exempt itself from the contraception coverage mandate under the Affordable Care Act.

In the second case, Professor Michael McConnell, who directs Stanford's Constitutional Law Center, and is a marvelous and thoughtful person, would say that the employee's religious liberty is not at stake. But is he right about that? What is religious liberty if I am forced to live by the religious convictions of someone else?

It seems to me we are back to my landlord tenant clinic and a one-sided approach that will not help resolve America's religious wars divisions.

Title: Happy Thanksgiving

Date: 2012-11-22T11:44:00.002-05:00

11/22/2012—Secularists are beginning to understand the importance of gratitude—toward those we love and toward the processes in the universe that make our lives possible and for the gift without a gifter of our existence. I hope to stop for a moment before our meal to today to give thanks for all these blessings.

Title: A Compromise on the Contraception Mandate?

Date: 2012-11-27T03:16:00.000-05:00

11/27/2012—E.J. Dionne wrote a column in the Washington Post on Sunday that celebrated the Catholic Church's real treasure of compassionate works and human solidarity. He also saw signs of a willingness to compromise on the Affordable Care Act's contraception mandate by the Bishops: "There are also influential bishops who now want to work with the Obama administration to secure a compromise on the contraception mandate under the health-care law. This, too, would be a positive break with the recent past, and the president should seize the opportunity. He can provide contraception coverage while building on the adjustments he has already made in the mandate to accommodate the church's legitimate conscience concerns. And there's nothing that should stop the bishops from cooperating with the administration and other progressives on behalf of immigration reform." Even assuming that the President still seeks a compromise and has not been emboldened by the election, it is hard to see how compromise is now possible. Let's say that the President agrees that all Church-sponsored organizations can be exempt and further, that exemption itself satisfies the Bishops. (a fairly unlikely eventuality itself). What about for-profit businesses owned by Catholics? And what about for-profit businesses that simply claim religious opposition whether Catholic or not, either out of sincere religious commitment or insincere political opposition to government healthcare? They cannot all be exempt unless the commitment to women's healthcare is to be jettisoned. Already some small businesses have won litigation victories under the Religious Freedom Restoration Act. Any large scale retreat by the Administration will also weaken its litigation strategy. Finally, what about large-scale business corporations? The Supreme Court says they have free speech rights. Do they have religious rights too? Compromise over the contraception mandate seems to require a solution to our religious divisions, which will not be achieved anytime soon. I hope Dionne is right, but I have my doubts.

Title: A Movie to Redeem Politics

Date: 2012-11-30T23:06:00.003-05:00

11/30/2012—In the midst of the tainted politics of the fiscal cliff negotiations and in light of the tortured path of Obamacare, go see the movie Lincoln for its gritty representation of politics. It was ever thus. But in the hands of a statesman, politics can reach the highest heights of meaning and inspiration. Lincoln could use flawed humanity, including himself, for divine purposes. And you will also see the base and sublime invocations of religion. For others, justification, but for Lincoln, mortification. Even the crass elements rise up: the bought Democratic politicians finally realizing they are serving a greater good.

Title: Is Abortion Next?

Date: 2012-12-05T05:02:00.002-05:00

12/5/2012—A friend of mine, who is as likely to vote for a Democrat as I am for a Republican, and whose opinions I find thoughtful and worthwhile, has told me that if the contraception mandate is approved and applied to protesting Christians, a widespread requirement for employers to provide abortion coverage will be next, and soon. Although we did not discuss the matter, I presume he is making a slippery slope kind of prediction. It is true that some of the arguments that are being made today to defend the contraception mandate from challenge under RFRA and the Free Exercise Clause would apply to an abortion mandate—that providing insurance that covers a procedure is no different from paying an employee a salary whose proceeds are then used for contraception and therefore the mandate is not a substantial burden on religion. And it is also true that some secularists and liberal believers are astonishingly indifferent, maybe even hostile, to conservative religious beliefs. I have been amazed at how lightly people I know can propose outlawing male circumcision for children without much concern about how such a proposal would be regarded in the Jewish and Muslim communities. I suppose a person who can propose outlawing circumcision would not hesitate to force Christians to provide insurance for abortions. But I wonder, if my friend proves right, whether Christians, particularly the Catholic Bishops, are not at fault for making false moral equivalents in the first place. It was the Bishops who declared the contraception mandate the equivalent to war against religion and it is some Christians who treat gay marriage as some kind of irretrievable line in the sand. Without presuming to tell Christians what they ought to believe, no one believes that abortion is morally equivalent to contraception and gay marriage. They ought not to be mentioned together at all, with the exception for any contraceptive that operates as a very early abortion agent. (There is dispute about the facts with regard to how some contraceptives work, but none about something like sterilization, which only prevents conception.) Simply put, most of the Catholics objecting to the contraception mandate are going to be embarrassed if the courts permit them to be questioned about their own contraception practices. Some Catholic institutions actually covered sterilizations in their insurance before anybody noticed. And even if gay marriage is bad for society, it is certainly better for the partners involved, who at last can express genuine and committed love for each other within a socially accepted institution. These matters are nothing like the destruction of human life in abortion. If my friend's prediction turns out to be correct, which I hope is not the case, maybe the failure of religious believers to make reasonable moral compromises will turn out to have played a role.

Title: Another Challenge From Religious Conscience

Date: 2012-12-08T05:40:00.000-05:00

12/8/2012—It seems that not a day passes without a new religious challenge to the requirements of law. The latest one concerns an application for citizenship for children of American citizens. The details do not really matter here. The parents object to the DNA testing that would ensure the parentage of the parents and hence the right of the child to be recognized as a citizen. The matter is being discussed today on a variety of law professor blogs. This example is a good one because the DNA requirement is noncontroversial and not aimed at the suppressing of any religious tradition. On the other hand, there is no reason to doubt the sincerity of the parents either in their genuine parentage or in their religious objections to the procedure. This example brings to mind Justice Scalia's warning in *Employment Division v. Smith* that general recognition of a right to religious exemption from neutral laws threatens "anarchy." The State's demand for proof of a right to citizenship before granting it is not only reasonable but necessary. This example is a reminder that well intentioned protections of religious liberty are going to present problems. At the risk of banality, I do not know of any response to issues such as these better than empathy born of the recognition of common humanity. If religion is really a separate realm, there is little reason for the nonbelievers to respond with sympathy to a plight such as that of the parents here. It is only when we recognize the burdens of conscience that apply to all of us that the will to accommodate will be vindicated.

Title: Bringing Wal-Mart Jobs to Michigan

Date: 2012-12-12T19:58:00.000-05:00

12/12/2012—Lost in the argument about the new right-to-work legislation in Michigan is the overall question of income maldistribution. One of the reasons that income is maldistributed is that unions are not there in most private industry to fight for higher wages. Instead, larger percentages of earnings go to management and shareholders. Conservatives like to say that this is all just a response to market forces. But experience suggests that at the margins, the exact distribution of returns from business activity is not fixed, but is subject to power relations. In countries that have strong union movements, such as Germany, those unions ensure that a larger portion of the economic pie goes to workers than in the US. This is not only good for workers, but, since workers buy products, it is good for the economy as a whole. Right to work is bad for everyone in the long run.

Title: Heller is Good News for Gun Control

Date: 2012-12-16T15:04:00.000-05:00

12/16/2012—I'm not sure anyone has really pointed out that the two Second Amendment cases, *Heller v. DC* and *McDonald v. Chicago*, which respectively recognized an individual right to gun ownership and use and applied that right to the States, is actually a boon to reasonable gun control efforts. In the light of the shootings in Connecticut, this may turn out to be a good time for a reconstituted gun control effort in America. The reason these cases are helpful is twofold. First, they absolutely prevent confiscation of guns in America. That would be unconstitutional. But the slippery slope to confiscation has been one of the key arguments against any sort of limits on gun ownership or ammunition regulation. Now there is an actual answer to that fear. Second, the right recognized in *Heller* and *McDonald* is quite limited. The cases invalidated the strict gun control laws of D.C. and Chicago, but would not prevent the prohibition of assault weapons or Teflon-coated bullets. When people loosely claim that some regulation violates the Second Amendment, there is now a specific reply that it does not—and that finding is by Justices Scalia and Alito, not some liberal anti-gun voice on the Court. So, basically *Heller* gives America a baseline. Below *Heller* government cannot go—ever. Above *Heller*, government can go and to some extent should. *Heller* and *McDonald* do not prevent a determined response to these shootings. They invite it.

Title: No, God Has Not Called Them Home

Date: 2012-12-20T04:56:00.000-05:00

12/20/2012—I read the President's moving talk at the Prayer vigil at Newtown, Connecticut. He said at the end that God has called these children home. This is what happens when the Christian message deteriorates and you are left not with theology but cliché. No, God did not call these children home. He no doubt welcomed them in heaven, if there are such things, but he did not call them. These children were senselessly murdered. Because if God called them home then God willed their deaths. Did God will their deaths? President Lincoln was a theologian. I saw the movie Lincoln again last night. The movie ends with his Second Inaugural Address. In that address, Lincoln names God's will as the possible driving force behind the Civil War: Fondly do we hope--ferverently do we pray--that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue, until all the wealth piled by the bond-man's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord, are true and righteous altogether" Lincoln did not shrink from the implications of his naming God and he did not do so lightly. But President Obama did not dare say that these deaths are God's judgment for our national sin of gun madness. That would have been nothing more than a partisan misuse of God's name to score political points. But Obama also did not dare to say what might be a deeper truth. The national obsession is not just with guns, but with violence. And he almost mentioned the failure of the nation to care for its children, another aspect of America's sin of greed. All this is beside the point. Slavery was a national sin directly related to the war it brought about. Pointing to God's will for Lincoln was akin to karma. In Newtown, we see something very different: the random violence of modern life. It is not God's will. It is a world without God. God did not send that violence. Violence is what happens to man without God. Since there is no God, that is one terrifying word.

Title: The Egyptian Constitution

Date: 2012-12-23T06:21:00.002-05:00

12/23/2012—At least I understand when liberals fear a national Constitution with some commitment to Islam. Liberals fear a threat to the rights of women and know that such a Constitution will hinder the recognition of gay rights. They are right about these things. Yet to have a Constitution without reference to Islam in Egypt seems an alien hope. This Constitution does not seem at all heavy handed and is of course nothing like the Iranian system. Democracy still seems to be the controlling factor. But I am no expert and have only heard about it. The opposition in Egypt is opposed to it, including most of the Christian community, so maybe this Constitution is a threat. But I find opposition to this Constitution by American conservatives weird, even laughable. After all, they want God, religion and even Christianity, or at least monotheism, embedded in the American Constitution. They want Christian symbols in every public event. They would champion a constitutional amendment that forbade laws that contradict the teachings of the Church. That is what the struggle over the contraception mandate is all about. They should be sympathetic to the Egyptian Constitution. I always envisioned an Islamist national leader addressing Congress, proclaiming “I just want our national motto to say God to Great, just like yours says One Nation Under God.” What’s the problem?

Title: One Man Promoting Gay Marriage And Religious Liberty

Date: 2012-12-26T13:46:00.000-05:00

12/26/2012—Merry Christmas and Happy Holidays from snowy Pittsburgh. While many people are working to promote gay marriage in the US, and many more are trying to protect religious liberty, very few are working to promote both. One man who is, is Douglas Laycock, Professor of Law at Virginia and the single most influential voice in American law about all manner of church/state issues. I have been critical in this blog of Professor Laycock's views on religious symbolism. But now I must praise him for the rare and necessary work he is doing in terms of gay marriage. Professor Laycock leads a tiny group of law professors—I am one of them, but as far as I can see, he does all the work—who write to state legislators urging them to support gay marriage legislation containing broad protections for persons and even organizations that for religious reasons cannot recognize gay marriage. Professor Laycock's message is a simple one. To those who support gay marriage, he explains that rigorous religious exemption is the way to build political support for a controversial social change. All the legislation passed so far has contained some kind of protection for religious conscience. To those who oppose gay marriage, he explains that gay marriage is practically inevitable and therefore it is better to protect religious liberty than not to do so. Proponents of gay marriage need extra conservative votes to pass the legislation today and so are amenable to including religious protections. In the not so far future, they won't need those votes and past opposition from religious conservatives will not incline them to grant exemptions then. What is most impressive about the work that Professor Laycock is doing is that it does not seem to be motivated by tactics, either to gain gay marriage or to accomplish religious exemptions. Rather, Professor Laycock seems to me motivated by the hope for a future of common ground and mutual understanding. He seems determined to help both sides see the humanity of those they consider opponents. We can only hope that his larger goals can be realized.

Title: What is Nihilism?

Date: 2012-12-29T14:53:00.003-05:00

12/29/2012—Next week, I will be speaking at a Conference on Christian Legal Thought that is parallel to the AALS Convention in New Orleans. The Conference Topic is The Statement on the Nature of Law from Evangelicals and Catholics. My response to the statement considers it an inadequate attempt to refute the nihilism of our day. But what is nihilism?

In an essay Martin Heidegger developed during the period 1936-1940 and delivered in different formats in 1943, Heidegger confronted nihilism through Nietzsche, *The Word of Nietzsche: "God is Dead"*. Nietzsche overturned metaphysics, turned it upside down, leaving it in inessentiality. Metaphysics is the relationship between the sensory world and the ideal or suprasensory realm—the realm of God, spirit, goodness etc. In nihilism, the suprasensory "is transformed into an unstable product of the sensory." This debases both the suprasensory and the sensory, leading to a neither/nor of the relationship of the two. It culminates in meaningless that metaphysics attempts to block "through a mere assigning of sense and meaning."

These words are hard to fathom, but I believe the movement Heidegger is seeing can be illustrated in the Nineteenth and Twentieth Century's treatment of the Bible. (this analysis is based on two lectures from the Teaching Company).

First, Horace Bushnell, who, in the words of Jay Williams, in 1869, published an article commenting on the Bampton Lectures offered by Edward Garbett who was one of many theologians of that time who devoted themselves to extracting "sure and certain" doctrines from Scripture. Bushnell, who entitled his essay "Our Gospel: A Gift to the Imagination," reminds his readers that the language of the Bible, indeed all language, is highly metaphorical and symbolic. Much of the Bible is poetry, parable, and folk tale and must be read as such. Forget the doctrines and dogmatic certitudes, he says, and use your imagination. Faith has nothing to do with accepting a particular set of dogmas.

In other words, the Bible is poetry.

Now consider the conservative theologian Charles Hodge, who through Common Sense Realism, viewed the Bible as a collection of facts, much as he viewed scientific investigation as a collection of provable facts. In 1841, Hodge published *The Way of Life*, which set forth his understanding of scripture. Hodge was influential in the development of the inerrancy doctrine of the Bible in what came to be known as Fundamentalism. Hodge was followed at Princeton Theological Seminary by his son, A.A.Hodge, and B.B. Warfield, who further developed his thought.

The influence of Hodge can be seen in the five fundamentals adopted by the Presbyterian Church in 1910 that came to define Fundamentalism in the U.S.

- The inspiration of the Bible by the Holy Spirit and the inerrancy of Scripture as a result of this.
- The virgin birth of Christ.
- The belief that Christ's death was an atonement for sin.
- The bodily resurrection of Christ.
- The historical reality of Christ's miracles.

Now think about Heidegger's account. The New Testament is clear that the resurrection was something real but also something mysterious. Jesus eats and drinks but is not recognizable. The resurrection is presented as neither poetry nor fact. This is the neither/nor that nihilism leaves us. We can choose to be liberal or conservative, assigning sense and meaning, but either choice is an act of will—an option we choose. Neither is true to the matter. The resurrection is suprasensory now reduced to an unstable product of the categories of the sensible world—poetry or fact. Thus does nihilism debase the sensory and the suprasensory.



POSTS:
2013

Title: On Taking Nihilism Seriously

Date: 2013-01-06T06:59:00.002-05:00

1/6/2013—I apologize to my readers for not blogging the past week, but I have been hard at work on the talk I delivered yesterday to a program sponsored by Lumen Christi and the Law Professor Christian Fellowship. I very much appreciate the warm reception I received, although the impression was that my talk was bleak. I'm publishing the entire talk in the next few days here on the blog.

I am here representing, in Zachary Calo's phrase, the world as such in its response to the draft statement on law, politics and government authored by Evangelical and Catholic lawyers and legal academics.

I am not really a representative of the world as such if that world is supposed to be entirely separate from religion. Judaism and Christianity are my traditions too, but I no longer belong to them.

I'm going to make five points. 1. The situation of all of us today is much worse than the draft describes. 2. The nature of our plight today is not as the draft says, relativism, which would merely be a clash of truths, but nihilism, which is far more fundamental. 3. Nihilism is just as much a crisis for the world as for the Church. Nihilism is common to us, whether we think of ourselves as religious believers or as dedicated to Reason. 4. nihilism cannot be defeated, for it is the destiny of the West. 5 But nihilism can be responded to, though not by invoking long-dead Christendom, as the draft does.

I have to begin with what the draft asserts and suggests about law. Humans in the world are dependent on another realm, which might be termed the realm of the spirit. That ideal realm, denominated variously in the draft as reason, the common good, the divinely given moral order, justice, higher law and natural law, is what is "enduring truth." To be authentic, law must be in accord with this higher realm. There is a name for this outlook. That name is metaphysics, in this case Christian metaphysics.

The implication of the draft is that the human world today is in danger of forgetting its true situation of dependence on this ideal realm, and indeed has already begun to forget it, with serious consequences involving spiritual malaise, material conflict and political tyranny. In other words, the world is a mess because it doesn't know what you in this room know.

The draft contrasts Aquinas' understanding of law as an ordinance of reason for the common good with "modern positivist theories of law." (page 15). Indeed, the document sets forth this contrast in "defiance" of the modern view. Thus, the draft is an attempt at faithful Christian witness against the modern rejection of metaphysics, which the draft criticizes as "the 'tyranny of relativism' that attempts to elevate human autonomy at the expense of truth." (page 3).

--1. Our situation is much worse than the draft supposes. The draft is satisfied. The Church thinks it is ok, but the world is bad. At least the Church is better off than the world. At the same time, the world is satisfied. The world thinks it is ok, but the world thinks the Church is bad. The world is at least superior to the Church.

-- The truth is, in Martin Heidegger's phrase, the darkening of world and Church. The truth is human inauthenticity everywhere. Where is human flourishing today? In ever renewing churches? They are emptying out. In motivated and energetic students. They just want a job. I have the sense that we are stuck and at the end of possibility? That humanity has been reduced to material resource. That man struggles for unlimited exploitation of the Earth. That our political system is broken. If you attended the socio-economic program at AALA yesterday, you heard that the financial crisis was caused by evil men stealing. Nor is this just the elites. Divorce has steadied only because so few bother to marry. And in my lifetime, gambling has gone from vice to a necessity of public finance.

2. That darkening of the world is not relativism, but nihilism—a world in which there is no inherent meaning except that which is asserted as an act of will. An ideology. That is why as the draft implies (p3) that law today is reduced to a “means of social control”—there is no greater truth for law to serve.

--falsely labeling the darkening of the world as relativism sets up a competition between the truth of Christianity and the truth of the world—is that a Christian stance? Not when there is a center for astronomy at the Vatican. Not when the Sh'ma and the Incarnation teach us that God is one with the world.

--nor did the legal positivists like HLA Hart deny that truth and goodness are binding on all human beings. They did not. The draft is mistaken.

--Today, as Art Leff wrote in a famous poem back in 1979 everything is up for grabs —nothing is binding. That is nihilism, not relativism.

Title: More On Taking Nihilism Seriously, Part 3

Date: 2013-01-08T19:08:00.000-05:00

1/8/2013--3. Nihilism is just as much a crisis for the world as for the Church. What does it mean to say, as Nietzsche announced in 1882, through the madman in *The Gay Science*, that God is dead? Martin Heidegger tells us in an essay about Nietzsche, that for Nietzsche, the word God is used to designate the suprasensory world in general—the metaphysical world of ideals. The pronouncement God is dead means that this “suprasensory world is without effective power. It bestows no life. Metaphysics... is at an end. ...[It] has suffered the loss of its obligatory and above all its vitalizing and upbuilding power. ... [So there is nothing—the nihil—] “to which man can cling and by which he can orient himself.” And this is just as true of Reason as of God.

--That is why nihilism is not a crisis just for Christians but for nonbelievers too. Nonbelievers insist that human beings rely on Reason instead of relying on revelation. But their comportment toward Reason is just as unreal today as is the invocation of the God of the Bible. Neither invocation can arrest the darkening of the world. Neither can arrest the human movement toward ever greater inauthenticity. Both claims, God and Reason, stand unmasked as a means to power.

--Now here I think those in this room may want to demur. You may say, We are Christians, not nihilists. Of course you are not nihilists. Nietzsche did not deny that there were men and women who still called on God in trust. He was announcing the destiny of the West. He was seeing that Christian proclamation now lacks authenticity. Let me show you that Nietzsche is right. Let me point out what happens to Christian proclamation in the world of nihilism.

Nihilism and its devaluation of Christian proclamation were on display in the response to the shootings of school children and others last month at Newtown Connecticut. I read President Obama’s moving address at the Prayer vigil. He said at the end of his talk that “God ha[d] called these children home.”

Well that must be true. God is the Lord of history is he not? But you know this is not true. God did not call these children home. These children were senselessly murdered. If God had called them home then God would have willed their deaths. No one dares to assert that God willed the deaths of these children.

Now let’s contrast our nihilism with President Lincoln’s theism. Lincoln lived at a time in which God still seemed to be alive. Lincoln ended his Second Inaugural Address by naming God’s will as the driving force behind the Civil War—you know the words:

Fondly do we hope--fervently do we pray--that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue,...until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord, are true and righteous altogether."

Lincoln did not shrink from the implications of his naming God and he did not do it lightly, but in all seriousness. Slavery was a national sin directly related to the war it brought about. Pointing to God’s will for Lincoln was akin to karma. It was a narrative that made sense in his culture.

In contrast, President Obama could not possibly say that the deaths of these children were God’s judgment for our national sin of gun madness, or our love of violence, or our failure to care for our children. Everyone would have seen a claim of that type as monstrous. We could not take any such claim seriously. But why? Because of our nihilism.

In Newtown, we see something very different from Lincoln’s narrative about the will of God: we see the random

violence of modern life. It is not God's will. It is a world without God. Meaningless violence is what happens to man without God. But if God is no longer believable, then what?

Title: Rest of Taking Nihilism Seriously , Parts 4&5

Date: 2013-01-11T12:18:00.000-05:00

1/11/2013--4. Nihilism cannot be defeated. The world tries and fails to defeat nihilism. Heidegger assures his readers that substitutes for the authority of the suprasensory realm do emerge. Conscience. Historical progress. Earthly happiness for the greatest number. The creation of a culture or the spreading of civilization. Creativity. And finally, the business enterprise. But even all these ultimately “suffer the loss of their constructive force and become void.” Even science becomes mere technology.

--The world also tries to find a new and improved metaphysics. In Heidegger’s interpretation, however, nihilism cannot be combated out of some new and improved metaphysics—out of some higher and more certain value—because the ground of nihilism’s essence lies in metaphysics itself. And this is so even when sincere opposition to nihilism assumes a defensive vehemence out of the believer’s self-righteous superiority. Note that the “believer” here is not the Christian, or even the religious one, but any commitment to the ideal realm. Nihilism is the failure of the ideal realm itself—the devaluing of highest valuation. Valuing itself belongs to the will to power. And that includes positing God as the highest value.

--Nihilism devalues God too, of course, which is why nihilism is announced as the death of God. But it is not the devaluing of God by critics that is the heaviest blow, according to Heidegger, but elevating the God who is held to be real to the mere status of the highest value. And this elevation is accomplished not by atheists but by theologians seeking to defeat nihilism. This kind of theology strikes down that which is as such, in its being-in-itself. That is sheer blasphemy, not a thinking in a godly way about the divine essence. As a friend of mine says, it is not letting God be God in God’s own way. It is the believer’s desperate act of seeking control over God, of forcing God to appear.

--Given all this, can the draft help defeat nihilism? Isn’t the draft’s very tone of insistent Christian restatement a merely human impatience with the way of the world today? And thus just another human assertion in the face of nihilism? Both the authors of the draft statement as well as its anticipated opponents would be understood by Heidegger as entangled in assertions of their own wills.

--While I do not know the way out of nihilism, that way cannot be the way of the draft, which is merely a way back.

---Why can’t we just go back to Aquinas? Because that would not explain how we got from Aquinas to here. The draft fails to give an account, out of Christian understanding, of how the current, positivist state of world has come about. The draft’s understandings of law and government at one time defined the West. Something evidently happened to that Christian conception, which even the draft assumes is no longer normative for the culture. It is fair to ask what happened and, further, to inquire how a mere restatement of the classic Christian position, which is what the draft sets forth, could possibly be an appropriate response to the historical event of nihilism? To that nihilism to which Christendom somehow led us.

--Dietrich Bonhoeffer did not flinch at providing such an account. He wrote that God was teaching humanity to get along without Him—was Bonhoeffer wrong? Then let the draft give us some other explanation of how we got here.

-- The draft reminds me of the last chapter in Charles Taylor’s book, *A Secular Age*. After all the analysis and even critique of the history of secularization in the West, all Taylor can denominate as a way out of what he sees as an impasse, is a chapter entitled “Conversions” that describes the trajectories of certain persons who found their way back to Christianity. After all that Taylor had written, this response is ludicrous. Western civilization is not, in some act of collective will, going to reconvert to classic Christian truth. And if did, that assertion of will really would be an act of human autonomy at the expense of truth. It would be a great universal posit. Such an act would be precisely a human assertion.

5. Without claiming to know any way out of nihilism, I believe there are three appropriate responses.

--First, we must remind ourselves of our common humanity and common starting point. We should be erasing borders between us. Christians should be echoing Dietrich Bonhoeffer's call for a religionless Christianity and recognizing Karl Rahner's proclamation of the anonymous Christian. Secularists, in turn, should be celebrating the rational and beneficent elements of Christianity—that its God is not an arbitrary tyrant—and reminding itself how Christian rationality gave birth to the scientific tradition that could study nature's regular patterns in the confidence that God may be subtle, but is not malicious, as Einstein once put it.

The failure to see and appreciate this common ground expresses itself divisively in America today in a number of ways, including the struggle over religious exemptions from law, on the one hand, and the challenge by Brian Leiter, and now many others, denominated "why tolerate religion?" on the other. Religious believers claim that their commitments are altogether different from those of the world and therefore demand unique rights and privileges, and then seem surprised when the world agrees with them that these commitments are different from anything the world believes but grants to these religious commitments little value. It would be a more appropriate response to our common nihilism to proclaim that religious commitments are of the same depth as are the commitments of the secular world and therefore deserve the same level of legal protection.

Other Christians have done this. Other Christians have been more open to the truths of the world than is the draft. When Pope Benedict, writing as Joseph Ratzinger, looked at the world's religions, for example, he warned Christians against looking at them purely from the Christian perspective of their "value for salvation," calling that perspective "the burden of a question that can in fact be decided only by him who shall judge the world."

Karl Barth approached Marxists in a spirit very different from that of the draft. In "Jesus Christ and the Movement for Social Justice," an essay Barth published in 1911, he explained to workers the relationship between Jesus and socialism:

If you understand the connection between the person of Jesus and your socialist convictions, and if you now want to arrange your life so that it corresponds to this connection, then that does not at all mean you have to "believe" or accept this, that, or the other thing. What Jesus has to bring us are not ideas, but a way of life. One can have Christian ideas about God and the world and about human redemption, and still with all that be a complete heathen. And as an atheist, a materialist, and a Darwinist, one can be a genuine follower and disciple of Jesus. Jesus is not the Christian world view and the Christian world view is not Jesus.

I believe the Pope and Barth understand that divisions between believers and nonbelievers do not arise out of differing conceptions of truth. If they did, we would engage and debate as the champions of Islam, Judaism and Christianity once did and we would learn from each other as in the golden age of Spain. No. Our divisions arise out of the looming darkness of nihilism itself. It is nihilism that turns our commitments into incommensurate posits that have nothing to say to each other.

So, common humanity is one response to nihilism.

A second response to the nihilism in which we are all caught offers for Heidegger "a faint light." At the end of his essay, Heidegger returns the reader to Nietzsche's scene of the madman. The madman enters exclaiming that he seeks God. Those in the square, who do not believe in God, are amused and make fun. Heidegger points to this difference between the madman and the comfortable ones. The madman experiences our inauthenticity and he is driven to seek the real, which he does not possess. The onlookers, says Heidegger, do not seek because they no longer think. They no longer seek the real, but accept the unreality of the ideal realm while continuing to pass these ideals off as real. Heidegger invites us to see this difference—not between believers and atheists but between the seekers and the satisfied. So, we might all join in seeking the real out of an admission that we do not know the real. We are all perplexed human beings who see through a glass darkly.

--Finally, there is one other kind of response to nihilism, one which has always been the great strength of all the religious traditions: the religious life itself, the example of the saint. The world is always thrilled by a Gandhi, a Bonhoeffer, a Martin Luther King, Jr., a Dorothy Day, a Mother Teresa. Even here, of course, some in the world scoff, but the admiration for these figures predominates. Religion produces lives, not dogmas. And it does so much, much more profoundly than any secular tradition, at least until now.

Nor are these *menschen* limited to great figures. Every inner-city minister and priest wrestling with young people against the sway of gang life replicates the way of thoughtful sacrifice. There are thousands, more, of such persons laboring faithfully every day, everywhere in the world.

I don't have to remind a room full of Christians of this reality—a religion that is a response to a call embedded in a human life. A religion that is not a dogma but a person. A religion that is not built on theories of law or anything else.

What is needed is an antidote for nihilism and there is not one. I don't know of any antidote more promising, however, than simply living life as a Christian. And unfortunately I don't know of any way that this possibility might translate into lives unconnected to institutional religion. In other words, what about those of us who cannot live a Christian life? Do we live a life as close to that as we can? Thus, if I were speaking to a room full of my fellow secularists, as I often do, I am not sure how I would end this talk. But that is our problem rather than yours. The challenge to Christians, as the draft unfortunately shows, is to recognize just how deep our plight goes today, and not to assume that old answers are adequate to that plight.

Title: Why Tolerate Religion? Because Secularists Need It

Date: 2013-01-13T07:18:00.001-05:00

1/13/2013—I have not finished Brian Leiter’s new book, *Why Tolerate Religion?*, in which he argues not that religion should be prohibited, but that religion is just another form of conscience driven behavior that deserves a certain level of protection in a liberal society. (I think he will argue later in the book that all such claims are subject to the needs of public policy, so this protection may not be very great). But I can already make a few points. First, I have to say that I agree with Leiter’s definition of religion to a great extent. Leiter states that the religious state of mind is distinguished by two factors—that there are some beliefs so central to the religion that they issue in “categorical demands” of action no matter what the arguments of the nonreligious world and these beliefs do not answer ultimately to evidence and reason as understood by science. (34). By this definition, Dworkin is right that the belief in the objective value of human life is essentially religious. What Leiter fails to see is that by this definition, the draft cases were rightly decided and most of us are religious. Most of our beliefs are not based on evidence and reason, but on something deeper. Second, two other claims for religion recognized by Leiter but not developed, show how much secularists need religion to be reminded of the possibilities of human existence in reality. Religion provides a “metaphysics of ultimate reality” (47) and is “pervaded by a sense of mystery.” (52). This is why, as Leiter acknowledges, religious people are more willing than anyone else to sacrifice themselves and provide counter-cultural witness, both for good—opposition in Nazi Germany and South Africa—and evil—blowing up abortion clinics and buildings and buses. (36-37). Religious life is lived at a greater depth. But this is why we secularists need religion and need to protect it. You don’t have to have belief in the supernatural to live life this way, but maybe you need people who do have such beliefs or others like them to be reminded of this way of living. I want to stand Leiter on his head. The crucial claims of conscience are in fact religious, even by his lights. We need to tolerate religion and do not generally need to tolerate anything else.

Title: I Agree With Some of the Words of Pastor Louie Giglio

Date: 2013-01-17T12:58:00.001-05:00

1/17/2013—There are a lot of things said by Giglio in the anti-gay sermon from the mid-1990's that led to his resignation from involvement in President Obama's Inauguration. I don't agree with much of it—that homosexuality is a sin, that it can be reversed through Jesus and so forth. But what about this quote from the sermon that everyone cites as a large part of the problem with Giglio? "We must lovingly but firmly respond to the aggressive agenda of not all, but of many in the homosexual community. ... Underneath this issue is a very powerful and aggressive moment. That movement is not a benevolent movement, it is a movement to seize by any means necessary the feeling and the mood of the day, to the point where the homosexual lifestyle becomes accepted as a norm in our society and is given full standing as any other lifestyle, as it relates to family." I hope that the gay rights movement is powerful and aggressive and is seizing the mood of the day by any means necessary so that homosexuality is given full standing as it relates to family. Isn't that exactly what the gay rights movement and its straight allies are striving for? Full and complete acceptance of gays as citizens with the rights of all other citizens. I know of course that Giglio meant what he said negatively, as something to be defeated. But at least this part of his sermon was not prejudice—it was acknowledgment of the stakes of the struggle over gay rights. But those are the stakes. If you give gays an inch—overturning anti-sodomy laws, let's say—they will take a mile—insisting on full equality. That is why Justice Scalia counseled keeping the anti-sodomy laws. But when our opponents claim that the goal of the gay rights movement is not just tolerance and acceptance, but full and equal rights, they are not being insulting, they are correctly describing the situation.

Title: Jeffrey Tucker Defends the Morality of Markets at Duquesne University Talk

Date: 2013-01-20T17:14:00.002-05:00

1/20/2013—Jeffrey Tucker, the Executive Editor at Laissez Faire Books, spoke at Duquesne University Friday night on the topic, Markets: Unjust or Moral? Unfortunately, I had to leave by 8 pm and missed the end of the talk and the Q&A. But what I heard before I left was very good indeed. But the talk was not really about morality, but about the misconceptions many Catholics have about Catholic Social Teaching. The origin of this thrust from the Church beginning in the 19th century (often dated at 1891 with the issuance of the Encyclical Rerum Novarum by Pope Leo XIII, but, Tucker argued really originating somewhat earlier) was opposition to Marxism and nationalism. Pope Leo was defending civil society and liberty against these forces, much as economic conservatives do today in the face of overbearing government. Far from supporting what passes today for liberalism, Catholic Social Teaching originated as an effort to enhance morality and restrain the State. Rerum Novarum in particular embraced private property, free association and freedom of worship. Tucker did not deny Pope Leo's emphasis on the right to a just wage—nor for that matter Pope Benedict's indictment of the excesses of financial capitalism. But Tucker emphasized that the Church could be incorrect about how markets are best regulated or wages best adjusted. There is no implied fallibility in the Church's views on economics and public policy and no Pope since Pius IX has tried to claim such expertise. I hope Tucker was questioned closely on his presentation. If I had been there, I would have asked him whether he viewed global warming as theft—Pope Leo did so view socialism and global warming seems to have similar characteristics (my acts deprive you of your property without your having any say). I also wanted to ask him about his theory that there is no inherent conflict between nature and human development. Are humans then entitled to make any changes in nature and its creatures that they wish? Does nature then have no inherent independent dignity? According to Duquesne Professor Antony Davies, Tucker's talk is just a first step in an ongoing dialogue between Catholic Social Teaching and the philosophy of freedom. I will note on this blog what future programs are being offered.

Title: What Was President Obama's Speech About?

Date: 2013-01-24T19:37:00.002-05:00

1/24/2013—President Obama's Second Inaugural Address was pretty short on specifics. But such speeches usually are. Two references brought to mind the excitement he raised in 2008 when he acknowledged nonbelievers as part of the national fabric—the first time any President had done so on such a public occasion. This time the acknowledgments were of gay rights and global warming—Obama called it climate change (I have never understood or supported that alternative term). But while nonbelievers really did not need much more than acknowledgment, that is not true to the same extent of gays and climate issues. It is true to some extent. Both issues have been taboos, which of course they now no longer are. But both issues require action. In the case of gays, repeal of the Defense of Marriage Act. In the case of global warming, lots of actions. So we have to wait to see Obama's substance. Probably the most significant part of the President's speech was his implied promise to defend "Medicare, and Medicaid, and Social Security." Obama said we need to deal with the deficit, but how can that be done if changes to these big three entitlements are off the table? David Brooks criticized this aspect of Obama's speech as "effectively to sacrifice the future to the past." To some extent it seems that way to me also.

Title: Mind and Cosmos

Date: 2013-01-30T21:28:00.001-05:00

1/30/2013—There is a new book out by Thomas Nagel, University Professor of Law and Philosophy at NYU, that is supportive of the general thrust of *Hallowed Secularism*. The book is entitled *Mind and Cosmos: Why the Materialist Neo-Darwinian Conception of Nature Is Almost Certainly False*. I have not yet read the book, as usual in these posts, but I have read H. Allen Orr's review of the book in the *New York Review of Books*, in the February 7, 2013 issue (and I will be reading the book). Nagel's book seems to have three thrusts. First, that the Neo-Darwinian account of evolution fails to account for some or much of process of evolution. Second, that the laws of natural teleology in the universe may account for the rest of the process. And third, that any form of materialist reductionism cannot account for consciousness and therefore is seriously incomplete as a theory of the universe. These three claims are related but I cannot quite see the structure of the book simply from the review. The book *Hallowed Secularism* begins with the notion of a telos for human beings. The Introduction quotes Sarah Blumenthal, a character in E.L. Doctorow's novel, *City of God*, speaking about God as evolving. We human beings pursue a teleology, an ultimate purpose that we do not know but one that "has given us only one substantive indication of itself—that we...live in moral consequence." As for consciousness, *Hallowed Secularism* argues that materialism cannot account for it from a simple material explanation. There is something uncanny about any physical arrangement giving birth to self-consciousness. And materialism will never be able to explain it. There is no direct physical explanation. Unlike Nagel, I don't claim in the book, because I don't know enough to say, that Neo-Darwinism has actually failed as an enterprise. I'm not sure that this is required before one can assert that there is more to the universe than the material.

Title: The Response to Obama's Contraception Initiative

Date: 2013-02-03T06:42:00.002-05:00

2/3/2013—It's been a disappointing reminder of the America's hyperpartisanship to hear the grudging and resisting tone of the response to the Obama Administration's new offer on the contraception mandate. Of the critics and litigation parties, only the Catholic Bishops have offered anything like openness to see whether any new rules might work as a compromise.

The most important aspect of the new proposal is its expansion of the exemption from the contraception mandate. The old proposal covered only churches, essentially, and now many and maybe most religiously affiliated nonprofits, like my own Duquesne University, appear now to be covered, or at least accommodated.

Of course some people say that the compromise itself is suspect because the requirement that insurance companies pay for the coverage without raising prices for the institution is impossible. But that position is ideological. The burden will be on those complaining to show actual costs to the institution.

And it is also true that for-profit businesses are still not covered by the exemption. That issue is going to have to go the US Supreme Court, since it would create an incentive to opt out for financial reasons and create quite a broad precedent for businesses that object on religious grounds to public policies—like union rules and nondiscrimination policies.

Having been a movement lawyer in death penalty cases, I wonder about the legal ethics of the Becket Fund for Religious Liberty. According to news reports—which may not be accurate—Kyle Duncan stated that the proposed rule “does nothing to protect the religious liberty of millions of Americans.” In context he may only have meant for-profit businesses, which is true. But Becket represents some parties who are included in the rule expansion. Their lawyers owe their clients strategies to benefit them and not just score political points. Two points made on the Becket website are

“For other religious non-profits, HHS proposes a convoluted ‘accommodation’ that may not resolve religious organizations’ objections to being coerced into providing contraceptives and abortifacients to their employees.

Finally, the long-awaited rule provides no concrete guidance for religious groups that are self-insured.”

Note the weasel words—“may not” and “concrete”. Some of their clients “may” be included and the self-insured “may” get relief when details are hashed out. A real lawyer would praise the expansion and try to get her client included—not bash it and avoid negotiation. Death penalty lawyers take plea bargains when they can get them. They don't litigate to show how unfair the death penalty is.

I guess I should not be surprised at the rejection by the National Right to Life Committee. They are only using the religious objection to aid their opposition to the whole idea of contraception coverage. They would only be satisfied if contraception were dropped from healthcare altogether.

Even the reactions of law professors broke down on essentially party lines. Where are the religious liberty proponents who will welcome the continuing efforts of the Obama Administration to carve an effective compromise? Of course by insisting on everything, religious liberty proponents may lose everything. But, as I heard at the AALS meeting last month, they expect to win in the Supreme Court. Maybe they will. Yet by resisting efforts to compromise and refusing to offer alternatives in negotiation, the cause of religious liberty may be the ultimate loser among the public.

Title: Why Tolerate Conscience?

Date: 2013-02-06T21:45:00.002-05:00

2/6/2013—The Center for Inquiry is conducting a symposium on Saturday, April 27, 2013 in Washington D.C., entitled, *Why Tolerate Religion?* The Symposium of course features Brian Leiter discussing his new book by that name. The argument that religion deserves no special treatment compared to other claims of conscience sounds fair to most secularists. But listen to the rest of the description of Leiter's argument in the program—"in his controversial new book *Why Tolerate Religion?* philosopher and legal scholar Brian Leiter argues that governments are wrong to single out religion and religious demands as deserving any special legal protection. Leiter contends that the reasons for tolerating religion are not specific to religion, and instead apply to all claims of conscience—and that governments are not required to grant exemptions of any kind, religious or otherwise, from laws that promote the general welfare." If this description is correct, a constant criticism by religious believers turns out to be correct. They have always said that first the government will oppress believers and then the government will go after everyone else. Well, that progression is just what this description sets forth. It is one thing to say that everybody should be protected in a sincere claim of conscience. Leiter's general argument can be understood that way. But it now looks like Leiter's position really is that no one should be protected from any law passed by the government. Why this unquestioned devotion to the State? If we can grant accommodation to sincere claims of conscience against certain laws, why not do so? Maybe this is not really Leiter's point. But he undoubtedly allowed this description to go out. It brings to mind a variety of the statement by pastor Martin Niemöller. In this case, first they came for religious believers, but I wasn't a religious believer. But then they came for me

Title: Nihilism at Sports Illustrated

Date: 2013-02-09T16:37:00.000-05:00

2/9/2013—No, I don't mean the swim suit issue. I mean "Does God Care Who Wins the Super Bowl?" Here's how SI describes the article I am referring to: "In a special piece for SPORTS ILLUSTRATED, Mark Oppenheimer (@markopp1), religion columnist for The New York Times, tackles the paradox of big-time football: The sport with the biggest Christian presence, most famous Christian athletes and most religious leaders affiliated with teams features a culture that seemingly goes against the values of Christianity." The story is monumentally hypocritical. There is no real showing of any inconsistency with Christianity. Athletes associated with organized Christianity are shown to be caring and sensitive. All the story suggests by way of inconsistency is that there are anecdotes about individuals who call themselves Christians while being willing to maim their opponents. But this is not true of the groups that support Christianity or the most well-known Christian athletes. Of course the sport is violent and the players rich. In that sense, there is a general inconsistency. But it is not obvious to most people that Christians must be pacifists and poor. No more inconsistency here than in the military or business. In addition, there are in the story the usual sly, secular criticisms, such as public school demonstrations of religious enthusiasm. But aside from all that, the article illustrates the deep nihilism of our culture. Obviously, the answer the article assumes is no, god does not care who wins the Super Bowl. And, indeed, all the Christians interviewed answered just that way. Athletes don't pray to win games. They pray for health or for a good game and so forth. But why should it be assumed that God Does Not Care Who Wins? The God of the Bible cares about everything. He knows every hair on my head. God wanted to look good vis a vis the gods of Egypt when he freed the Hebrews. Why would not the team with the most Christians win the game? (Some people thought that Tebow was being favored by God in this way.) If winning is irrelevant to God, why is not someone getting hurt equally irrelevant? The story and the expected result is all part of our atheism. God is not really real to us. That is why we can say of something important to us that God does not care. If there is a God, He might care. And anyway, if there is a God, we cannot know what He wants.

Title: The Absurdity of Corporate Religious Freedom

Date: 2013-02-13T01:22:00.000-05:00

2/12/2013--Kevin C. Walsh, an attorney in Richmond, VA, has written a blog entry ([here](#)) arguing that the Religious Freedom Restoration Act protects for-profit corporations from laws that substantially burden the exercise of religion. It is quite well done. But it is a textual argument about the word person in the statute. Generally person in federal law includes corporations. And many religious organizations are in corporate form. This is true. But Walsh does not ask what sense this would make. Citizen's United, the case that held that corporations were protected by free speech in making campaign contributions, at least had the virtue that the arguments made by corporations might be something that voters should hear. Religious liberty is quite different. It is a matter of conscience. Corporations do not have consciences. Corporations do not have religious beliefs. Human beings who run corporations do have religious consciences. And I suppose one can imagine a human being who so identifies with a corporation that when the corporation violates the tenets of the human's religion, it bothers the human. But could this really be true of General Motors? Could it be true of Chevron? And even in the case of a more tightly held corporation, the human being does not really identify that closely with the corporation. That is why the human being does not pay the debts of the corporation. That is the point of the corporate form. Surely this human being cannot argue that the corporation is an alter ego when it buys medical insurance but not when it runs up debts. Where would this end? I'm sure there are corporations who similarly sincerely feel that unions violate their religious liberty.

Title: No One Believes in Separation of Church and State

Date: 2013-02-16T06:51:00.003-05:00

2/16/2013—In April I will be speaking in Philadelphia to a regional meeting of Americans United for the Separation of Church and State. This group is unusually open given our political hyper-partisanship. They are willing to listen to me speak in a way that challenges some, not all, of what they believe in. I am working on the talk now. It will be about the common ground that exists between what we call religion and what we call nonbelief. But I will begin with the observation that no one really is committed to separation of church and state beyond certain narrow practices—like giving public money to churches, which everyone opposes. Obviously the religious right does not believe in separation. They want God plastered on every public occasion. They want public piety to be ostentatious, despite Jesus' injunction to pray in secret. Yet the right is not consistent. When it comes to the Obamacare contraception mandate, they plead that religion is a separate realm and that the institutions of religion should be exempt from the demands of law. But if religion is in the public square, why should churches and all believers get any special treatment? That should only happen if religion is separate. In similar inconsistent fashion, the left, including Americans United, want to banish religion from the public square. Religion is separate. But, when churches and their related institutions want separate protection from general law, suddenly religion is no longer a separate realm. Suddenly, religion is to be treated just like everything else. Now, I also do not believe generally in separation. But my reason is different. I don't believe there really are two realms at all. Most of us are believers. Most of us believe in a real but invisible realm of values, such as the true and the beautiful and the good. When we say slavery is wrong, most of us mean wrong inherently and forever, not wrong because humans finally agreed it is wrong. Wrong from the point of view of the universe. And that is a religious view.

Title: None

Date: 2013-02-22T12:23:00.001-05:00

Time Off for Surgery 2/22/2013—Blogging will resume next week.

Title: Time Off for Minor Surgery

Date: 2013-02-22T12:24:00.001-05:00

2/22/2013— Blogging will resume next week.

Title: Heidegger and the Jews

Date: 2013-02-28T10:49:00.001-05:00

2/28/2013—If you believe, as I do, that Martin Heidegger is the philosopher/theologian for the 21st century, then you have to deal with the fact that Heidegger joined the Nazi Party shortly after his election as Rector of the University of Freiburg in April, 1933. In his inaugural address as rector on May 27 he expressed his support for a German revolution, and in an article and a speech to the students from the same year he even supported Adolf Hitler. He did not resign from the Party until 1945. Heidegger never offered a public apology for his involvement with Nazism, though he reportedly called it privately "the biggest stupidity of my life." I think I understand joining the Party. Heidegger was always opposed to the conventional and was never supportive of liberal thought. I'm sure he flattered himself that he could lead Hitler to greatness—Plato's error. It did not take long for him to see that this was a mistake. Heidegger resigned from the rectorate in 1934. I also think I understand the failure of public apology. Heidegger thought that Nazism, Communism and Capitalism were fundamentally (ontologically) identical. To see this, imagine the following: before you can burn people in ovens, you must reduce them to the status of useful reserves. But the West began the process of that kind of thinking about the world long before Hitler. Heidegger could never have really explained himself without falsely supporting that which he thought was at the heart of the Nazi atrocities. But I could not go along with a thinker who was anti-Semitic. Heidegger denied that at the time of his joining the Party. And there are plenty of references in *Contributions to Philosophy*, which he wrote in secret from 1936-1938 and did not publish until after the War, to show his negative feelings about Nazism. Nevertheless, it is reassuring to read a short reference in *Contributions* in which he makes fun of the regime's views of the Jews. I came across this passage yesterday. Heidegger is discussing the nature of science (127). He writes: "Sheer idiocy to say that experimental research is Nordic-Germanic and that rational research, on the contrary, is of foreign extraction! We would then have to resolve to number Newton and Leibnitz among the 'Jews.'" I'm glad he put "Jews" here in quotation marks. Not only is this idea of Jewish science ridiculous to Heidegger, but so is the whole notion of threat by the Jews against Germany.

Title: Farewell to Pope Benedict

Date: 2013-03-01T18:30:00.006-05:00

3/1/2013--Yesterday was Pope Benedict's last day as Pope. Benedict was never really understood. Among many people in the West, Benedict was seen as conservative and doctrinally harsh. But the truth is that was Benedict, alone among recent popes who was able to engage secularity. It is impossible to imagine anyone but Benedict debating Jurgen Habermas concerning the role of religion in Western society. And it was Benedict who gave a theological justification for tolerance among all the religions. It was Benedict who wrote that the Christian could not decide that the path to salvation lay only in Christianity. That was for God to say, not a human being. Benedict wrote two very accessible works during his time as Pope. These were his two books about Jesus. Benedict stated that he did not write these books out of the teaching authority of the papacy. He wrote them, as it were, as a scholar. I don't know any Catholics who actually read these two books. But if the church has any hope to a future, these books will become part of the curriculum for young people to understand the Gospels. And it was Benedict who dared to call Islam to account for its anti-rational stance toward God. All that is remembered now from that event is the controversy that his remarks created. But Benedict was presenting a serious theological challenge to Islam. As I mentioned above, it was not Benedict's purpose to contrast Islam's view of God with that of Christianity. Rather he challenged Islam on its own terms to deal with God as a rational being. Not as a willful tyrant. Benedict's way, rather than the way of military confrontation, is the path toward a pacific Islam. So I for one say farewell to Benedict's papacy with great sadness. And with tremendous admiration. Benedict was a man who did not need to be Pope. But we needed him to be Pope.

Title: What is the Meaning of Faith Today?

Date: 2013-03-03T04:25:00.003-05:00

3/3/2013--In 1935, Martin Heidegger presented a lecture course entitled Introduction to Metaphysics. Heidegger considered this work to be the fitting companion to his master work Being and Time. In Introduction to Metaphysics, Heidegger grapples with the question, "why are there beings at all instead of nothing?" This question is the fundamental question for philosophy. But Heidegger asks whether "anyone for whom the Bible is divine revelation and truth" can really ask this question since such a person already has the answer. The answer to the question, why are there beings at all instead of nothing, is God. But then Heidegger seems to suggest that the kind of faith that answers this fundamental question so easily is perhaps not faith at all. He writes, "if such faith does not continually expose itself to the possibility of unfaith, it is not faith but a convenience. It becomes an agreement with oneself to adhere in the future to a doctrine as something that has somehow been handed down. This is neither having faith nor questioning, but indifference – which can then, perhaps even with keen interest, busy itself with everything, with faith as well as with questioning." (8) Thus Heidegger gives us a kind of hierarchy. There is the philosopher, who does not claim to be a believer. The philosopher can, perhaps, with great effort and discernment, engage in genuine questioning. Then there is the religious believer, the Christian, who has a ready answer from the tradition to any possible question. Heidegger suggests that this is not genuine religious faith because it never can question. In fact what looks like faith is instead indifference. Finally, there is genuine faith, which proceeds in effect only from the possibility of unfaith. Thus Jesus can ask, why have you forsaken me? The term that I have used, that for me points toward the lack of faith that masquerades as faith, is politicized faith. Politicized faith can be conservative or liberal. Politicized faith proceeds from pre-existing commitments rather than from an encounter with the living God. Almost everyone in America seems to manifest politicized religion. This is true of liberal religion that endorses the welfare state. It is certainly true of conservative religion that opposes the contraception mandate of Obamacare. As Heidegger says, it is an agreement to adhere to a doctrine in the future that has already been handed down. It is an open question whether genuine faith is even really possible today.

Title: An Open Letter to David Brooks

Date: 2013-03-05T10:49:00.000-05:00

3/5/2013—Yesterday, the Pittsburgh Post-Gazette published 2 columns concerning the crisis in American secularism. One column was by Bishop David Zubic. It was entitled *an oversupply of 'nones'*. Bishop Zubik lamented the growth of nonbelief and non-affiliation with religious traditions among so many Americans. But I think it is fair to say that Bishop Zubik had no strategy for reaching out other than to be open to reaching out. He treated Catholicism as a settled dogma and invited people back to it. This is of course generous and open on his part but essentially irrelevant.

New York Times columnist David Brooks, on the other hand, specifically contrasted American and Chinese approaches to education. ([See column here](#)). The column was entitled *Learning Virtues*. Brooks argued that Chinese understanding of education combines moral and ethical self-development along with cognitive achievement. American education, on the other hand, tends to ignore not only morality but self-development altogether. American education treats what is to be learned as objective and outside the person.

For Brooks, the cause of this division in the West is the tension between religion and science that we learned from the Greeks. Brooks contrasted the Western division of the good and the true with the holistic approach of Jewish study and Confucianism. I emailed to Brooks the open letter below not to disagree with his observations about American education, but to locate the cause of this phenomenon in capitalism and monotheism itself.

Dear Mr. Brooks:

Although I agree with your column in the Pittsburgh Post-Gazette on March 4, 2013, that American education, in contrast to Chinese education, separates self-development from knowledge—the good from the true—I'm sure that I am not the first to point out that your assumption of what caused this difference is probably incorrect. You laid the cause of this division in education to the skeptical scientific inquiry of Greek culture. But, according to Pierre Hadot, in the book *What is Ancient Philosophy?*, Greek learning strongly manifested the trait of self-development that you identify with Chinese education.

I am no expert in these matters, but undoubtedly the cause of the difference in educational approach between America and China must have something to do with the two great traditions that separate them: monotheism and capitalism, the two traditions to which you give loyalty.

The role that capitalism plays in dividing the true from the good would seem fairly obvious. Capitalism rewards achievement. It does not care about virtue. There are no sages in a capitalist society.

With regard to monotheism, you claim that Jewish Torah learning in general fuses the moral and the academic. I would not deny that that this is so in certain isolated aspects of that tradition, such as the Musar movement. But in general, Talmud learning was premised on a legal positivist style, not on the fusing of the good and the true. And in the texts that followed the Talmud, such as the Little Talmud and the Shulchan Aruch, the tendency to legal positivism only

increased. This tendency may have come about, as it does in Islam today, because monotheism emphasizes obedience to the will of God.

When will you allow, Mr. Brooks, your sharp inquiring eye to develop into serious critique? If there is something wrong with American society, it is likely to be caused by something serious and widespread. It is likely to be caused, in other words, by something most people support. Your moderate criticisms are never going to be of any help.

Bruce Ledewitz

Title: Charles Taylor's Error

Date: 2013-03-06T05:49:00.000-05:00

3/6/2013 – – The greatness of Charles Taylor's achievement in his book, *A Secular Age*, in 2007, is that Taylor allows us to see an error that he makes, which is also an error that everyone else is been making. Taylor assumes that as religion recedes—as the public realm becomes less religious, as people go to church less, as belief in God becomes merely a cultural option—what emerges is simply the secular. In other words, Taylor assumes that the secular is what you have when you no longer have religion. He assumes that the secular in this sense is the opposite of religion. But if Taylor's account were accurate, then the secular would become more firmly established as religion recedes. This, however, is not the case. The best way to describe the secular today is that "everything is up for grabs." In the current era, in which, as Taylor writes, religious commitment is merely an option, all commitments have become merely an option. The proper term for this age, therefore, is not *A Secular Age*, but the age of nihilism. From the perspective of nihilism, the religious and the secular are in the same boat. Both the religious and the secular are oriented toward ultimate meaning and are directed to opposition to nihilism. Instead of a world divided between religion and the secular, it is more fruitful to see religion and the secular as 2 ways, not identical but related ways, of seeking the good, the true and beautiful. Thus, we should speak not of the secular and the religious, but rather of the secular/religious. In contrast to the secular/religious, there is nihilism and all the forms of dealing with nihilism. The forms of dealing with nihilism have numerous manifestations, but they all deny that there is Truth. In this new description, the New Atheists, seem pretty clearly on the side of the secular/religious, rather than coming out of nihilism. They all seem pretty committed to absolute truth, even if they lack a proper term for it.

Title: On taking Ronald Dworkin Seriously

Date: 2013-03-08T12:17:00.000-05:00

3/8/2013 – – Ronald Dworkin died on February 14, 2013. He was unquestionably a giant of postwar American jurisprudence, particularly constitutional jurisprudence. Dworkin's insight that constitutional interpretation must apply fundamental moral principles constituted the major liberal counterweight to the various forms of conservative constitutional interpretation, such as original intent or textualism. Dworkin's commitment to moral principle was very much a higher law perspective. Thus, in a general way, Dworkin's approach was always compatible with the underlying understanding of higher law upon which most of my work rests. Thus, in a sense, I am a follower of Ronald Dworkin. The problem with Dworkin's thought, however, is that over time, especially in his popular writing, such as in the New York Review of Books, Dworkin became nothing more than an apologist for conventional liberal commitments. At a certain point, he ceased having any original or interesting insights. Dworkin was particularly insensitive to religious liberty. And, in my view, this was only because he viewed religious commitment as antagonistic to his favored position on abortion. That is an example of how result oriented he became. Still, Dworkin's accomplishments were great. And there is no other voice on the American left to counter conservative commitments that are justice result oriented and justice little thoughtful and creative.

Title: The Executioner in Chief

Date: 2013-03-10T09:33:00.002-04:00

3/10/2013 – – The hypocrisy of the Democratic Party, and the left generally, was spectacularly on display over the issue of drone attacks on American citizens on American soil. I saw this hypocrisy before, during the Clinton administration. Then the hypocrisy was the refusal to condemn a Democratic Party president over his sexual harassment of an intern. This time, of course, the hypocrisy is in service to a much more serious violation of American traditions, norms and law.

It should be an embarrassment that it took a Republican Party senator, Rand Paul, to confront the Obama administration over its unwillingness to renounce the right to kill American citizens by drone attacks on American soil, without arrest and without trial. And I would like to make it clear that I have always felt this way. I referred in class, before the Paul filibuster, to Pres. Obama as the executioner in chief.

The justifications offered for this “right” to execute Americans by drone are not at all convincing. Specifically, there is already authority for something like the necessity of shooting down a pirated airplane that is heading into an occupied area, as was the case on 9/11. Similarly, there is already authority in criminal law to shoot to kill and escaping criminal suspect under certain limited circumstances. There is no reason this could not be done by drone as well as by gun. But the authority to shoot and escaping suspect comes after the attempt to arrest the suspect, not instead of an attempt to arrest the suspect. A drone attack, conversely, is not a failed arrest but an assassination.

The larger lesson in the drone controversy, however, is a reminder that the suspicions of the right about government are by and large justified. This is not shocking. The ACLU exists after all because the left knows perfectly well that government is a dangerous enterprise. Nor is this a condemnation of government regulation or government redistribution of income. It is a reminder, however, that even in these endeavors government is not inherently trustworthy.

This is one reason why a basically private economy is preferable to one of government owned resources. Today in the New York Times, David Segal, in his column entitled the Haggler, savagely criticized the customer service actions of the Whirlpool Corporation. Segal could do this, and Whirlpool must really respond, because Whirlpool has competitors. And Whirlpool cannot respond by investigating Segal or by harassing him, at least not in any obvious way.

But what if Segal had been criticizing a government service instead? In part it would have been somewhat the same. But not entirely so. Charles G. Koch, who is so wrong on so much, likes to say corporations don't have power. Only government has power because power means the power to coerce. It is a lesson worth remembering even though it does not mean everything that the Koch brothers believe it to mean.

Title: Ronald Dworkin Seeks Common Ground for Religion

Date: 2013-03-13T17:22:00.004-04:00

3/13/2013 – – In The New York Review of Books issue that arrived today, (April 4, 2013), there is an excerpt from a book by the late Ronald Dworkin that will be published later this year: Religion without God. In the excerpt, Dworkin argues for what he calls religious atheism, basically a commitment to objective values without the existence of a supernatural God. In some ways, Dworkin is arguing for the kind of higher law secularism that was at the heart of my book, church, state, and the crisis in American secularism. Dworkin seems to be arguing that the commitment to objective values unites theists and many atheists. Of course, I have been seeking that kind of common ground for several years now. I look forward to reading the book and I need to peruse the excerpt more closely. But there are two things about Dworkin's argument that seem odd. First, it was Dworkin who, in 2006, pose the great divide between religion and non-religion. He asked whether we should be a religious society that tolerates nonbelief or a secular society that tolerates religion? There was nothing about him then that was seeking any sort of common ground. Second, Dworkin relies heavily on David Hume's distinction between fact and value. This distinction forces Dworkin to treat the existence of God as a fact, as opposed to a matter of value. But is God really like that? God would seem to be beyond the fact/value distinction, although Hume certainly agrees here with Dworkin. In any event, Dworkin seems to be saying to theists and atheists, we disagree about God but can we not agree about the objectivity of values? Dworkin says faith in values is more important than beliefs about God. I'm not sure that anyone will agree about that. I agree that most of us are religious. But I mean by that that belief in God and belief in values are similar beliefs. Dworkin is arguing that they are different. But then why is not the objectivity of value itself a fact?

Title: At the FSU Conference on Religion and Law in American History

Date: 2013-03-23T07:22:00.003-04:00

3/23/2013 – – I will blog more tonight and tomorrow, when the conference is over, but the FSU Conference on Religion and Law in American History has just been fabulous. There were three panels yesterday: Intra-Religious Debates and Legal Identity; Islam, Rights, and Freedom; and Faith-based Initiatives in the Secular Age. The first panel was rooted in mostly American legal history. The second was a very searching investigation of how Islam and Muslims are treated in the United States. It is not a pretty picture. Professor Winifred Sullivan, the well-known authority on lawn religion, responded to the second panel by raising the question of whether a greater sensitivity to religious beliefs, as opposed to changing the way people are treated in general, would improve matters. The third panel race questions very close to those I have been discussing in Church, State, and the Crisis in American Secularism. The question was the use and role of religion in schools and prisons. Leslie Ribovich from Princeton discussed Thomas Lickona's Educating for Character in terms very consonant with higher law secularism. The scholars here are young and very accomplished. And the tone is very different because it is a conference sponsored by the Department of Religion rather than by law school. In other words this is a conference of religion and law, not law and religion.

Title: Happy Passover and Holy Week

Date: 2013-03-27T14:28:00.001-04:00

3/27/2013 – – Because I no longer celebrate the Passover holiday I lose track of the days of the Seder. Of course, no one in America can fail to note Good Friday and Easter, especially since I teach at a Catholic law school and school closes for the holiday. So I want to wish all my religious readers the very happiest of holidays. I can see all around me how families reunite during this time of year. I cannot myself say that I miss the Seder. I always found the food part to overwhelm the theology and religious teaching. I enjoyed Seders in my youth, especially singing them with my Dad, and I enjoyed them with my own children, of course. For me, the most important line in all of the Old Testament concerns Passover, Exodus 23:9: “you shall not oppress a stranger: for you know the heart of a stranger, seeing you were strangers in the land of Egypt.” It’s a little hard to believe that Jews and Muslims are at each other’s throats in the Middle East given this injunction. But just as clearly this teaching is for all of us and applies to the homeless here in Pittsburgh as much as it does in international affairs.

Title: The New Face of Nihilism

Date: 2013-03-29T20:36:00.002-04:00

3/29/2013 – – David Brooks wrote an op-ed in the New York Times today entitled The Empirical Kids. He was describing the current generation of elite college students through the lens of a paper written by a student at Yale, where he is teaching. The current generation of college students differ from those who grew up in the 1990s whom Brooks had described back in 2001. That earlier group was smart, hard-working and cautious. Unlike them, however, current students did not grow up in the prosperity of the 1990s nor in the enthusiasm over the fall of the Soviet system. The current generation of college students grew up in the shadow of 9/11. They were seven or eight in 2001. They grew up with the moralistic rhetoric of President George W. Bush that led only to interminable conflict and, says Brooks, national humiliation. Because of these experiences, the current generation distrusts moral claims. Instead, it is suggested, these students look for small gains that can be empirically verified, which generally they cannot be. These students also experienced the financial crisis and came to view the capitalist system as brutal and unpredictable. They have also absorbed a feeling of national decline in which they lack confidence that they can compete in the global economy. The most revealing quote in the piece is this one: “We are deeply resistant to idealism.” The promise of social movements does not seem to this group of students likely to be filled. Occupy Wall Street led to nothing. The Arab Spring seems mired in internecine conflict. Brooks and this student writer apparently call this generation empirical. But that term does not seem to me at all to capture the spirit that Brooks describes. Rather this seems to me to be the new face of nihilism. This group of students does not really believe in anything and has no reason to. Things are a lot worse than I thought if this is the spirit of undergraduates at Yale.

Title: Why Tolerate Religion?

Date: 2013-04-04T06:54:00.000-04:00

4/4/2013 – – There is an odd disconnect in secular thinking about the relationship of religion in the public square. The disconnect appears prominently in the upcoming symposium, *Why Tolerate Religion?*, that will be held on Saturday, April 27 in Washington DC, sponsored by the Center for Inquiry Institute. I am sorry not to be attending. Half of the program is devoted to the new and developing free exercise question of religious accommodation to generally applicable laws. This is the issue in cases involving a ministerial exception to disability laws or religious exemptions from the contraception mandate. Brian Leiter argues in his book, *Why Tolerate Religion?*, that there is no persuasive reason to treat religion any differently from any other claim of conscience. Leiter would not see his proposal as an attack on religion. It is only a challenge to religion as a preferred realm. Leiter would say it is an equality model. Leiter's premise is probably false. Since the Vietnam war draft cases, deep, more or less nonreligious, claims of conscience have generally been recognized under religious exemptions. What perhaps has changed, is that nonreligious people, unlike the draft exemption applicants, are unwilling to apply for an exemption that is denominated as religious. But whether Leiter is right or wrong, in practice his proposal is an attack on religion. For there is in Leiter's work another premise, which is that even these claims of conscience, religious or secular, should generally yield to the claims of the state. Thus, as religious believers have often predicted, the result of lessening religious liberty is to lessen liberty for all. Equality is the starting point but the ending point is dominance by the state. The disconnect is that at the same time the first part of the program challenges and interferes with private religious practice when that practice conflicts with generally applicable law, the second part of the program examines *Legal and Political Challenges to Secular Government*. The topic here presumably is the usual one of government use of religious images in the public square. What is missing is any sort of consistency in neutrality and separation. For if government is to be genuinely secular, it should have nothing to do with religion. That would mean leaving churches and religious organizations alone. They should be free to choose their own ministers without interference by the state. They should be free to offer or not offer contraception benefits to their employees. The idea of secular government only makes sense when there is a private square in which religion is free to flourish on its own terms. But I'm pretty sure that this sense of room for religion will be entirely missing from the CFI Symposium.

Title: The Broadway Show, The Book of Mormon, is Sick

Date: 2013-04-07T15:20:00.003-04:00

4/7/2013 -- I just came from watching the national tour version of The Book of Mormon. I left at the intermission and I feel I should take a shower. I admit I was worried about a show whose premise is making fun of Mormons, but the first part of the first act is pretty funny. It's a jokey atmosphere because not that much is at stake. Making fun of the good-natured goofiness that these writers see in the Church of Latter-Day Saints can be very funny. It also helps that the Church advertises in the show bulletin, so the Mormons are not offended. Well, presumably. But when the mission in the show gets to Uganda and there is real misery, I began to feel uncomfortable at the jokey atmosphere. And I guess I don't find it that funny that people in their misery sing a song that translates, F* you God. Then, toward the end of the first act, in order to set up a dramatic tension, a man is shot dead in the face and a dictator threatens female mutilation of every woman in the village. And it is still a jokey atmosphere. That's when I left. And by the way I would like to apologize to a former student who asked me as I left the building how I liked the show and I told him. That was, as they say, self-righteousness walking. At least the play The Producers understood that the jokes about Hitler were in terrible taste and the movie never showed any actually evil acts being performed. I don't think Springtime for Hitler would've been regarded as funny if Jews were being gassed as it was being sung. Well, the Show the Book of Mormon is like that. I don't know why everyone did not leave. There can be humor in terrible conditions. Indeed humor in such a circumstance can be a saving grace. But, even so, misery itself is not funny.

Title: Cherry Picking Religious Liberty

Date: 2013-04-13T11:38:00.002-04:00

4/13/2013 – – Catholic judges routinely grant civil divorces, even between two Catholic partners who had been married in the Church. Does it not seem that this is a direct challenge to the religious liberty of the judge? After all, the State is requiring the judge to undo the work of the Church in rather direct contradiction to the teachings of the Church.

This thought comes to mind because, increasingly, I have been thinking that Catholic opponents of gay marriage, who are insisting on religious exemptions from nondiscrimination laws with regard to gay married couples, are being awfully inconsistent. As a matter of law, there is nothing surprising and unusual in such inconsistency. The United States Supreme Court has reminded us that the government is not to try to enforce a theological consistency on the claimant for religious liberty. Nevertheless, the presence of inconsistency in this area could have a political implication as well as suggesting that religious liberty may not be as at stake as claimants for exemption have suggested.

It was an April 8 column by Ruth Ann Dailey in the Pittsburgh Post-Gazette that started me down this road. Dailey has been suggesting for quite some time that the way out of the gay marriage problem is for the government to provide for civil unions for everybody. Marriage, on the other hand, would be the exclusive prerogative of religious bodies.

I admire Dailey's effort. I'm not sure Church authorities would be very happy if their religious rituals had no secular effect, which is what Dailey's proposal suggests to me. In other words, after I married in the Church, I would still have to go to the civil authorities for civil union – – perhaps I would only have to file a form. The churches have benefited from being granted secular authority to marry people in the eyes of the state. They would lose this authority if I understand Dailey's proposal correctly.

I'm not sure that Dailey's proposal solves the problem that she is dealing with. If the government granted civil union status to everybody, including gay couples, would Catholic charities then allow the gay couple to adopt?

But on another level, Dailey is suggesting that in the eyes of Catholics, gay couples cannot marry and this is the reason that some Catholics do not wish to cooperate in any way with gay marriage. But if that is the case, then how can such a Catholic cooperate in my marriage – – that of a once divorced Jew? Indeed, how can the Catholic cooperate with the nonmarried heterosexual couple who live together? I am referring to the well reported Washington state florist who refused to provide flowers for a same-sex wedding and is now being sued by the state of Washington. How come the florist would provide flowers at my wedding? And indeed how can the Catholic judge divorce a Church-married Catholic couple?

I belong to a small group of law professors who urge state legislatures to recognize gay marriage laws, but to provide religious exemptions. I joined this group out of a mix of pragmatic and principled grounds. The pragmatic ground is that religious exemptions promote acceptance of gay marriage. But I am no longer so sure of the ground principle. I'm no longer certain just why religious believers cannot cooperate with gay marriage when they can cooperate with other instances of apparent but religiously inauthentic marriages.

Title: Boston

Date: 2013-04-18T08:11:00.003-04:00

4/18/2013 – – I've been waiting to write about Boston to see if we might learn who was responsible for this crime. I admit that I have been hoping that the genesis of the act was domestic rather than foreign. I did not want to see all of Islam blamed for an attack perpetrated by a small group of criminals. We don't yet know what happened. But there are larger issues so I thought it best to go ahead. What does the violence of modern life mean? Each act, of course, has its own cause-and-effect. But what does the whole pattern mean, whether it is a movie theater or Newtown, Connecticut or the Boston Marathon? Martin Heidegger called all of this in 1935 the "darkening of the world, the flight of the gods, the destruction of the earth, the reduction of human beings to a mass, the hatred and mistrust of everything creative and free... ." (Introduction to *Metaphysics*, 40) Heidegger linked all of this to Nietzsche, who wrote about the death of God. This death of God had nothing to do with atheism. God for Nietzsche was a representation of the entire ideal realm. He meant that we had lost, at least in the West, all sense of measure by which to orient ourselves. We no longer have a real answer to the question, What's the use? All the old measures that we trot out, including God and including Reason, are not convincing anymore. Heidegger attributed all this to what he called the forgetfulness of Being. But neither you nor I are ready yet for that. It is enough for now to know that we have lost something, something important, and we lack the means to retrieve it. We don't even know what it is we have lost.

Title: The Third Church/State Issues Symposium in Philadelphia

Date: 2013-04-21T07:51:00.000-04:00

4/21/2013 – Yesterday, the Lower Valley Chapter of Americans United for Separation of Church and State held a fabulous church state issues symposium. It was an all day affair with very impressive speakers. The keynote address was given by Barry Lynn, executive director of Americans United. He was witty and insightful as always. I will have more to say about the symposium as I think about it but I was particularly taken by the openness of the speakers at the end of the program: Rogers Smith, Thomas Beers and Michael Meyerson. The speakers were wrestling with the potential for common ground between believers and nonbelievers. And the audience, composed remember of people dedicated to the separation of church and state, was very willing to listen and engage. I left the program with much greater hope than I have experienced before. Here is my abstract from the program. As you can see, I was also speaking about common ground: Are We All Really Mostly Religious? Bruce Ledewitz Americans are fighting today over religion. We always have. But today, that fighting contributes to the partisanship and anger, even hatred, in American political life. On one level, we are fighting over government use of religion as a violation of the Establishment Clause and over laws that burden religious belief as a violation of the Free Exercise Clause. But, at a deeper level, we are fighting over religion itself: whether it is good or bad, rational or irrational, reliable or illusion. We are struggling over whether we will be a religious or a secular nation. That fight cannot be settled. It can only be fruitlessly fought. I hope that through my question—*are we all really mostly religious?*—that fight can be transcended. My question is tendentious. As someone who left Judaism, I know that, for many secularists, not being religious is crucial. Similarly, many liberal believers know they are religious, but still want strict separation of church and state and limits on religious exemptions. But if we recognize religion as the matrix from which the questions surrounding the meaning of existence emerge, we will have more empathy for the differing paths that our questioning takes. Our hatreds may lessen. The scope of religion requires that in the context of Free Exercise, practices that are not traditionally religious, must be protected. The Supreme Court has recognized this. But this same broad scope of religion also requires that some forms of religion must be permissible under the Establishment Clause. Once, contesting an anti-abortion law, Ronald Dworkin called the law unconstitutionally religious because the government was claiming that human life is inherently valuable. That is a religious claim. But such a claim embraces almost all of us and cannot be banished from political life.

Title: The Coming Secularization of Islam

Date: 2013-04-25T04:06:00.000-04:00

4/25/2013 – – Whether the end of the Wars of Religion in Europe, which began with the start of the Reformation in 1517, is reckoned as 1648 with the Peace of Westphalia, or as might have determined the worldview of the framers of the United States Constitution, with the Glorious Revolution in Great Britain in 1688, there was eventually an exhaustion and revulsion in Europe against the bloodshed sparked by religious differences.

This exhaustion at what religion had brought was a key element in the rapid secularization of Europe. In other words, religion, specifically Christianity, which had loomed so large in the Wars of Religion, caused secularization because of its fanaticism. By 1700, something like the secular society of Europe, in the sense of a secular public square, is emerging. With the onset of the American Revolution in 1776 and the French Revolution in 1789, a thoroughgoing public secularism is established. Religion is still important, crucially important, to millions. But never again is religion in Europe or in North America the source of universal bloodshed. Nor is it ever again the source of universal inspiration. Religion, Christianity, is secularized.

These thoughts are sparked by the carnage in Boston. We still do not know, or at least I do not, what motivated these two brothers to attack innocent runners and onlookers, what dark visions they served. But I am guessing that it had something to do with Chechnya and something to do with Islam. And even if that turns out not to be the case, it will still be understood as having been the case.

The relationship between Boston and the Wars of Religion is this: just as the bloodshed of the Wars of Religion discredited religion and convinced people generally that religion had to be tamed, privatized, and banished in a sense from the public square, just so the time is coming when Islam will be thoroughly discredited in the eyes of the world. Even in the eyes of believers. For Islam has brought an endless reign of violence, just as Christianity in Europe brought an endless reign of violence.

The secularization of Europe, which proceeded so rapidly to undermine the dominance of Christianity in Europe, could never have been predicted from a vantage point of 1648 or 1688. From that vantage point, Christianity seemed monolithically dominant. But once people began to judge Christianity as dangerous, its decline was inevitable.

In the same way, Islam today seems enormous and well-established and dominant. But what the world sees is that the most vociferous devotees to Islam take up not only war, not only violent resistance to political oppression, but mindless and cowardly destruction of public buses and the murder of innocent eight-year-olds and women who are merely watching a race. The justice or injustice of these campaigns, their roots in genuine national self-determination, are all eventually beside the point, just as the justice of the individual Wars of Religion in Europe and the grievances of each side were eventually seen as irrelevant.

And so, what I expect to happen is a rapid revulsion and turning away from Islam. That turning away will not immediately manifest in decline in numbers of adherents to Islam, just as it did not so manifest immediately in Europe. The turning away will manifest in an increasing willingness to endorse a secular public square, a concept totally alien to Islam today.

I do not mean by any of this to suggest of Islam is a violent religion or that these murderous fanatics are fair representatives of the tradition. I don't mean that anymore than I believe that Christianity is a violent religion. It is not. It is a beautiful religion. But Christianity was still responsible for the Wars of Religion. And Islam is still responsible for the terrorism committed in its name. And, for that matter, Judaism is responsible for the settler movement in Israel, which manifests generally in this principle: the more committed one is to Judaism, the more likely it is that one refuses to recognize the legitimate rights of the Palestinian people. What could be more likely to discredit religion in the eyes of the young?

Title: We Don't Need Secularists, We Need Democrats

Date: 2013-04-28T23:01:00.001-04:00

4/28/2013 – – A story today on the front page of the New York Times illustrates how unrealistic and out of touch our foreign policy has become in the Middle East. The story explains that the orientation of all the rebels in Syria toward Islam was making life difficult for the United States and reducing its influence. The United States has been looking for a secular opposition to the Assad regime. But in the end there was no secular opposition. All of the opposition represented the Sunni majority seeking a more Islam friendly Syria. This fruitless search for secularists in a conservative, highly religious region, is doomed to failure. Obviously in this context a genuinely popular movement is going to be religious in some sense. We have made this mistake now in Egypt and Iraq and Afghanistan and most recently in Syria. More significantly, the problem is not just that secularist popular movements don't exist, but that the United States has no reason to be concerned about them. We should have one policy in the Middle East and elsewhere – – that policy should be the promotion of democracy. In the long run, only democracy will bring both public legitimacy and peace. It is true that in the short run genuinely popular movements are going to be more anti-Israel and anti-American than the autocratic regimes we have been supporting. But that will only be true in the short run. In the long run, a democratic regime is going to seek peace with Israel because such a peace will be in the long-term interests of its people. There is an issue about Islam and democracy. Morsi in Egypt is not yet reassuring about whether democracy can survive an Islamically oriented government. But that is the question, not the fruitless search for secularists. The United States should be busy selling democracy among the rebels in Syria, not secularism.

5/2/2013 – – In a way, our current moment can be described as the intersection of nihilism and science. Both are powerful images and resources. Nihilism gives a sense of something ending in our time. The reliable sources of meaning, such as God, truth and reason, no longer seem so reliable. It is not clear to what the young give their loyalty and in what they hope. We have left many of the old forms, particularly the old forms of religion, behind. The many ongoing effort to obscure that are not persuasive. Nothing seems to have power to build civilization. And yet there is science. I don't mean by that the technological behemoth or even the intricate gadgetry of modernity. Nor am I paying homage to materialism, which is not an adequate account of reality. I mean basic science and basic exploration, such as the Mars probe. Science is the one realm that still delights and still surprises. But how are these two phenomena related? Science was also part of the old world. Why has it not been discredited? Nor has nihilism been rendered impotent by scientific investigation. The one who pointed the way to putting these two together – – nihilism and science – – is Martin Heidegger. Heidegger pointed out in Contributions to Philosophy that being is no thing, being is nothing. And nothing, or the nothing (das nichts), is more than just a nullity. The more the nothing is enriched, the more simple is being. I don't know how these fit together, if they do. But certainly nihilism has to do with the nothing. The question is, is science the search for being? Scientific materialism certainly is not that. But the kind of science that we can associate with Teilhard de Chardin may be. The quantum void before the Big Bang was nothing, but it was a roiling nothing, filled with hints, intimations and promise.

Title: So, What Is Science As We Know It Is at an End?

Date: 2013-05-05T15:20:00.003-04:00

5/5/2013— There is a book review in today's New York Times of Lee Smolin's book, *Time Reborn, From the Crisis in Physics to the Future of the Universe*. The reviewer, Alan Lightman, is disturbed by Smolin's book. For Lightman, asking the question of the conditions that made the Big Bang possible is both a triumph and a defeat. It is a triumph because previous generations had neither the wherewithal nor the accomplishment even to ask these questions. But it is also a defeat, because "if we must appeal to the existence of other universes -- unknown and unknowable -- to explain our universe, then science has progressed into a cul-de-sac with no scientific escape." What does Lightman mean by a "scientific escape"? Does he mean that there is no escape within the methodology of scientific materialism? Perhaps it is that kind of scientific method that is at limit. That would not necessarily mean an end, however, to scientific discovery and advancement. I guess what I mean is that we may be coming to the end of everything narrow and fragmented. All the methodologies of positivism, including of course the methodologies of law, will have to be rethought in view of the interconnectedness of all things shown by quantum physics and argued by Smolin. In particular, in regard to science, Martin Heidegger referred to the realms of Geist in *Introduction to Metaphysics*. But these realms did not include science. Science was limited, at least in that part of Heidegger's thought, to reactionary cultural values or modern service to technology. There was no sense of Geist in regard to science. But maybe the mysterious connectivity of all things to which Smolin refers is Geist.

Title: Secular Discomfort at Shaming

Date: 2013-05-09T18:06:00.002-04:00

5/9/2013 – – Yesterday, Judge Lester Nauhaus sentenced former Supreme Court Justice Joan Orie Melvin to 3 years house arrest to be followed by 2 years probation and a \$55,000 fine. In addition, Judge Nauhaus required that the defendant apologize to former staff members and colleagues through a letter of apology to the entire judiciary accompanied by a photo of the former justice in handcuffs. The sentence was controversial. I understood part of the controversy. Many people feel that she should have been sentenced to jail. What I find difficult to understand is the discomfort some people feel at the use of a sanction of shaming. In the story in today's Post-Gazette by Paula Reed Ward, Stephen Garvey, an expert on such sanctions, noted that these sanctions can be objected to on moral grounds – – that you should not humiliate and demean people. Then there was a comment by Gershen Kaufman to the effect that shaming causes psychic harm and humiliates the whole kinship clan. This sanction was designed just to humiliate her. Well of course it was. That was the whole point. Are we now at the point where sophisticated opinion is uncomfortable at proclaiming moral superiority even over a felon? This appears to me to be an instance of secular relativism gone mad. I grant that there are fifth amendment issues. Even someone convicted of a crime has the right to maintain her innocence. However, Justice Orie Melvin was perfectly willing to say she was sorry in court in hopes of a lighter sentence. Why is this apology any different?

Title: Is Obama Nixon?

Date: 2013-05-12T20:57:00.003-04:00

5/12/2013 – – I was disappointed when Obama's foreign policy turned out to reflect the foreign policy of George Bush. But I am really outraged if Obama's domestic policy turns out to reflect the policies of Richard Nixon. It was Nixon, you might remember, who sought to use the IRS to intimidate and harass political opponents. Nixon was not impeached and removed from office for doing this. But it was of a piece with his other activities that ultimately led to Watergate. He resigned in the face of almost certain impeachment and removal. I did not see a story in the New York Times today about The IRS targeting Tea Party groups. This omission itself is troubling. You can only imagine that the story would have had legs if liberal groups were targeted by a conservative administration in the same way. In any event, I don't really know what happened. There was a column by Ross Douthat in today's New York Times that suggested that a "low-level" employee at the IRS was involved. If that is the case, then that person and that person's supervisors should be fired. But if the White House was in any way involved, then Obama should face impeachment and removal. I would like to see some assurance that the White House knew nothing about this. But the truth is that the Obama administration is so politically savvy that I have a hard time believing that they White House was not involved. It would be nice if for once people could approach an issue like this without regard to partisan politics. There is nothing more dangerous than an administration that uses the government bureaucracy that should be strictly nonpartisan for partisan ends. The idea that the IRS might treat a political opponent of the President at all differently from everybody else is a short route to dictatorship. And I don't know why the President's supporters, of which I count myself, are not much more enraged by this story. It is possible that what happened here was a sincere belief by low-level officials that Tea Party organizations were misusing 501c(3) designations. In other words, these conservative organizations generally did not deserve tax exempt status under the law. But it is a genuine threat to democracy when political opponents of the party in power are treated differently from everyone else. Even if this suspicion was the motivating factor behind these actions, the actions are still corrupt in a political sense. In other words, it is easy for a politician to believe quite sincerely that her opponents generally act unlawfully. Because it is so easy to believe that, it is extremely dangerous when politicians act on such suspicions.

Title: Was Schempp Such a Triumph?

Date: 2013-05-16T19:11:00.001-04:00

5/16/2013 – – On the weekend of September 27–29, 2013, the Department of Religious Studies at Indiana University–Bloomington is hosting a conference to examine the legacy of *Abington v Schempp*, the case that held mandatory Bible reading in public school unconstitutional 50 years ago.

The conference is interested in Schempp from the perspective of its authorization of the academic study of religion. This is perhaps an idiosyncratic view of the case. Certainly, the main thrust of Schempp was to banish the Bible from public school. Its implications for graduate study and University study of religion are really beside the point.

I have submitted a proposal for the conference that probably misses the focal point the organizers are interested in. For me, the question is, what was the ultimate meaning of banishing the Bible from public school?

On one level, Schempp was a triumph. After all, the reign of mandatory Bible reading was discriminatory and offensive to Catholics, Jews, other minority believers and of course to nonbelievers. Schempp ended all that and for that we must be grateful.

But Schempp also ushered in the era of value free education in public school. It is not at all clear that that era has been a success. Here is how I put that question in my proposed paper.

Challenging Law's Nihilistic Vision for the Public Schools

The fiftieth anniversary of Schempp's ban on Bible reading in the public schools is not cause for celebration. Although the case introduced the now familiar distinction under the Establishment Clause between teaching the truth of sectarian religious traditions and teaching about those traditions in an academic sense, Schempp can also be seen as the first step on the road to radical value skepticism in public school curricula. Bible reading was defended in Schempp on substantive moral grounds—as countering societal materialism—not just as a religious exercise. It is no surprise that the ban on teaching the Bible became, in 1992 in *Lee v. Weisman*, a ban on teaching in the public schools “that there is an ethic and a morality which transcend human invention.” The consequence of Schempp was that any assertion of moral realism was considered to be religious.

It is doubtful that the Justices on the Supreme Court were aware of their descent into value skepticism. Their nihilism was unconscious and unthought. But their unconscious skepticism was evidently shared by school districts nationally. Even the modest curriculum of comparative religion and the literary study of religious texts suggested in Schempp did not emerge. Today, Schempp's shadow clouds all efforts in the public schools at character formation and the promotion of the meaningfulness of existence. Even the controversy over the teaching of evolution can be understood not as the insistence on biblical literalism, but as a protest against an aggressive scientism that presents life and its development as accident and contingency, denying the possibility of any telos in the universe, however secular and scientifically grounded its form. The time has come to challenge Schempp and Schempp's later developments by introducing an expressly value laden, nonsectarian curriculum into the public schools.

5/19/2013 – – In today's New York Times book review section, Hilary Mantel, the author of *Wolf Hall*, says that the book she most presses on other people is *Religion and the Decline of Magic* by Keith Thomas. I have not read Thomas's book but you can get a pretty good idea apparently of its content, though not its quality, from the title. The book traces the struggle of 18th century Protestantism in England against magical practices and by extension against the sacraments and rituals of the Catholic Church. [The struggle between magic and religion has contemporary manifestations as well. That struggle is one of the reasons that references to Christmas sound so jarring in the Harry Potter novels and movies. Those witches and wizards might fit Halloween, which is sort of about them, but their universe is completely alien to the Christ saga] The reference to Thomas's book suggested to me that you could easily write a sequel entitled *Science and the Decline of Religion*. The idea would be that just as Christianity struggled to rationalize monotheism by placing everything in the hands of God, science proceeded to rationalize still further by placing everything in the hands of natural laws. Or, in other words, just as earlier it turned out that you did not need magic to explain the world, it later became clear that you did not need religion either. Or something like that. It turns out however that Thomas actually wrote both books. This is pointed out by a reviewer at Amazon who suggested the title of this post as an alternative title for Thomas's book. This was no interpretive leap. This reviewer quoted Thomas toward the end of the book, page 765, as follows: "when the Devil was banished to Hell, God himself was confined to working through natural causes." Up to this point, my so-called rationalist friends and critics would be nodding approval. Now, they would say, all we need is science. The problem is that the science in question is, as the reviewer also notes, "mechanical philosophy." It is the science of Newton. It is a science of billiard balls. It is, it has been said, the science of the mechanistic American constitutional structure. But this kind of science no longer exhausts science. It is not the science of quantum physics. It is not the science of the perhaps untestable multiverse. Nor, it should be added, is it the science of human experience. This desire to treat mystery, meaning and telos as extrinsic to the universe is doomed to failure. The universe just is a place of mystery, meaning and telos. It turns out that mystery, meaning and telos cannot be banished, whether they are called magic or religion or even science.

Title: Spiritual Exercise #1

Date: 2013-05-21T15:34:00.003-04:00

5/21/2013— – There are different ways to develop spiritual life. Meditation is one. Seeing and describing may be another. I'm sitting here in the easy warmth of a spring warm spell in my shoebox courtyard with its brick floor, brick marked planting areas, back dominated by the great oak tree and the carport, empty now but reminiscent of Patt. I can see there's always a breeze but the sun blocking house also blocks the wind, except when I can hear the leaves rustle. It's too warm for the pugs, but maybe too lazy. Lazy, except for the workman shouts in the alley and the airplanes that motor overhead. On first glance it's all mostly green—this short tree and the tall branching tree and the grasses and the plants—but on closer look very different shades of red everywhere—the brick the flowers, droopy now in the heat, and the flowerpots and the covers. Even the brown fence seems red. Then there is the silver and dirty white of the big wind chime and the hammock chair hanging from the tree. The chair now turned round to face the fence as if some invisible man has no interest in conversing today. I left out the chirping birds. They are always there, but quiet and happy. You only hear them when you think about it.

Title: How Hippies Became Evangelical Conservatives

Date: 2013-05-26T08:22:00.003-04:00

5/26/2013 – – T.M. Luhrmann has become a thoughtful student Of American Evangelicals. His book, *When God Talks Back: Understanding the American Evangelical Relationship with God*, reveals a great sympathy and an ability to translate beliefs that may seem alien to a larger audience.

In the April issue of Harper's magazine, Luhrmann describes a part of that story in an article entitled, *Blinded by the Right? How hippie Christians begat evangelical conservatives*. In the article, Luhrmann tells the story of middle-aged Evangelicals who earlier in life had been hippies, in the 1960s/1970s.

The question is, how did such a seemingly radical transformation come about, from wild free-spirited left-wing consciousness to hard conservative right and deeply religious commitment?

Well, for one thing, these were people who had rejected conventional living. So, when they became disillusioned with hippie life, that it was not so romantic and that people, particularly women, saw that they were being used, some began to look for another way of life: one that would be just as unconventional but would not involve lying and drug use and using people. For some, evangelical Christianity fit the bill.

For another, these were not people of sophisticated theological thinking. They were not by nature skeptics. They had already devoted themselves to love. And what is evangelical Christianity, what is Christianity at its heart, if not that?

Luhrmann does not believe that people like this just stumbled into right-wing politics. He does not believe that they were manipulated. Abortion plays a big part in Luhrmann's article. Abortion, and its legalization, caused Francis Schaeffer to lead Evangelicals into public, political life. (Luhrmann does not explain so well how abortion might lead a person to be so judgmental of homosexuals, for example).

Another way to tell the story, says Luhrmann, is that these Christian hippies never really did change the politics. They always distrusted government and big institutions and they still do.

But, finally, Luhrmann believes the heart of the matter is Jesus. In Jesus, evangelical Christians have a personal, the most personal, relationship. Jesus is alive. He is your best friend, only better.

This understanding of God, according to Luhrmann, has important social and political consequences. It means that God has a plan for us, that we must strive to improve ourselves to be worthy of God, and that all this is possible. From this perspective, says Luhrmann, Democrats are whiny and too dependent on government handouts and too tolerant of human weakness. In other words, we are all addicted and God will make us stronger. To say that this is an alien understanding for most people on the left, is an understatement.

There is a lesson in Luhrmann's article not just about how to do politics differently to be more

attractive to a certain kind of voter, but more importantly perhaps to think differently and feel differently about the human condition itself.

Title: The Economy, the Poor and Religion

Date: 2013-06-01T11:50:00.001-04:00

6/1/2013—On Thursday, May 16, 2013, Pope Francis delivered remarks to four new ambassadors to the Vatican: from Kyrgyzstan, Antigua, Luxembourg and Botswana. My mentor gave me a copy of these short remarks, no more than 600 words or so. But the words were very profound.

The Pope opened by saying that we are experiencing a turning point in our history concerning many kinds of advances in the world. At the same time, however, most people continue to live in insecurity even in rich countries. “The joy of life is diminishing; indecency and violence are on the rise; poverty is becoming more evident.” Not only must people struggle to live, but frequently, they live in an undignified way.

One cause, presumably not the only cause, of our situation is to be found in our relationship with money and our acceptance of its power over ourselves and our society. Money is a new idol. The worship of the golden calf. This cult of money, this dictatorship of the economy, is faceless and lacking any truly humane goal.

We are operating under a deficient human perspective, which reduces human beings to only one of their needs, consumption. Indeed, in this economy, human beings themselves are considered a good to be consumed and then thrown away. (This sounds like Heidegger).

None of this is an accident: “it is being promoted!” Human solidarity, “which is the treasurer of the poor, is often considered counterproductive, opposed to the logic of finance and the economy.” While the income of a minority is increasing exponentially the income of the majority is crumbling. This imbalance results from ideologies that uphold the absolute autonomy of markets and financial speculation, denying the right of control by governments that are charged with providing for the common good. This is a new tyranny that imposes its own laws and rules. This credit and debt economy distances people from the real economy and real buying power. All of this is done expressly and openly, but there is also corruption and manipulation that make matters worse.

“Concealed behind this attitude [will to power and will to possession] is a rejection of ethics, a rejection of God.” God is situated outside the categories of the market. God is unmanageable by these manipulators. God is dangerous because “he calls man to his full realization and to independence from any kind of slavery.” Ethics makes it possible to create a balanced social order that is more humane.

I feel, reading these words, the way I felt reading the words of Benedict and John Paul II: who else speaks this way? Whose words cut like a knife in this way? This is not simply left-wing, it is completely outside the pale of normal political/economic discourse. It is a powerful witness on behalf of the poor and a powerful condemnation of greed.

What does a Chris Hitchens or a Richard Dawkins say to this? What do we atheists bring to our cultures that can compare to this?

I'm sorry that the dogma of the Catholic Church includes so much unnecessary stuff, mostly related to sex. I'm sorry that the same eye that can see so clearly with regard to economic and social life, is so blind to the reality of love among same-sex couples. But we must learn to be more discerning. It makes no sense to give up this witness on behalf of the poor and dispossessed, this challenge to the powerful and the wealthy that can be put by no one else as well as by the Pope. Thank God for Francis. He says so well what needs to be said.

Title: "In our family, there was no clear line between religion and fly fishing."

Date: 2013-06-04T01:56:00.001-04:00

6/4/2013—This quotation is from Norman Maclean's book, *A River Runs Through It*. There is a website where you can read the quote in context. You will see there that it is not obvious what Maclean means. It does not mean that in any sense fly fishing and Christianity were competitors. The father who taught the boys fly fishing was a Presbyterian minister and former Marine. There was no fly fishing on Sunday, the Lord's day. It is closer to say that the truths revealed in Christianity, because they are truths, can be seen in any other great and beautiful endeavor, especially to those who know how to look because they have been taught these truths from the Bible. As the author puts it, man by nature is a mess and has fallen from an original state of grace. Only by intuiting God's rhythms could man regain power and beauty. These rhythms were on offer in fly fishing. Until man is redeemed, he will tend to miss this rhythm. He will try to attain power without recovering grace, without recovering rhythm—and he will fail. And this is true of any great art. Now let us think about these words in these activities from the point of view of Brian Leiter. Fly fishing is not literally being proposed by the author as a new religion. From Leiter's point of view, fly fishing is more akin to the rural boy who must carry his dagger. You can distinguish between fly fishing and Christianity, but they are of equal value. It is not an impossible account. But it does not capture what the author is trying to show. Fly fishing takes up where Christianity ends as a kind of moving illustration. It is a way of life that can express the truths of Christianity, though it might not. And I suppose the author would agree that one might have the spirituality of fly fishing without having first learned the truths of Christianity. It might be something like Zen and the Art of Motorcycle Maintenance. I think my approach is closer to the author's insight than is that of Leiter. You could be religious through fly fishing. There is no valid way to distinguish between them, if fly fishing is in fact a spiritual exercise.

Title: Chen Guangcheng Comes to Pittsburgh

Date: 2013-06-08T21:34:00.003-04:00

6/8/2013—Today City of Asylum/Pittsburgh, a marvelous local group that supports artists and others against dictatorial regimes around the world, presented Exiled Voices of China and Tibet. It was a great program featuring Tienchi Martin-Liao, the president of Independent Chinese PEN, the poet Liao Yiwu, the activist Chen Guangcheng and New York Times reporter Andrew Jacobs. It was an absolutely fantastic group of people and was presented just down the street from my house in Pittsburg. I got to ask the question of Chen Guangcheng about the controversy of American law schools with programs in China. Here's how I put it: Mr. Chen, your case and the treatment of your nephew, still in China, has sparked debate among American law schools that have programs in China including Duquesne law school here in Pittsburgh. The debate is how we should teach American law students about a Chinese legal system that does not function lawfully. Do you have any message that you would wish to bring to American law schools that are engaged in this debate? Chen did not answer the question directly. He started out by saying that the American conception of law and the Chinese government's conception of law were very different. Law in China is simply a tool of the government and really a control not even by the government, but by the Communist Party. In a sense both the government and the people have been kidnapped by the Communist Party, which controls the administration of the legal system in all its applications. There is for example no way to sue a Communist Party secretary. They are like emperors. The party decides who is prosecuted, the party decides who is sentenced and a party propaganda Bureau controls the media. Since the entire country is a tool of the Communist Party, you cannot just look at the courts in the legal texts to decide what the law is. Such sources would describe the legal system in a democracy but they do not do so in China. Now, the law schools with programs in China must decide on the implications of this statement.

Title: The Return of the Cicadas

Date: 2013-06-13T16:03:00.001-04:00

6/13/2013—One of the amazing spectacles nature is the return of the cicadas on the eastern coast the United States every 17 years. When you think about the last time the cicadas emerged, in 1996, and the return now, in 2013, and then the next time they will emerge, in 2030, you have a 34 year cycle—the main part of an adult lifetime. The next time the cicadas come, I will be, if I'm alive, 78 years old. Even given the way law schools work, I will be retired, my productive years probably over. I hope Patt and I will be enjoying a dual retirement. This natural rhythm is far more encompassing than any human life. And like all the great cycles of nature, dwarfs human creativity. The lack of recognition of this kind of clock is one of the flaws of humanism. It is in fact one of the flaws of modernity itself. Once, you could've said this is a flaw in secularism. But today religion itself, especially in its Christian varieties, emphasizes the human to as great an extent as any secularism does. But the human, by itself, this not amount to that much. It certainly does not refresh and reassure the way the return of the cicadas does.

Title: Chen Guangcheng to Leave NYU

Date: 2013-06-17T06:15:00.001-04:00

6/17/2013—The New York Times reported Sunday that Chen Guangcheng will be leaving NYU. In the story, Chen claims that NYU is responding to pressure from China based on NYU's new campus in Shanghai. NYU denies this and some persons close to the situation point out that the Fellowship Chen received when he came to the United States, was only to last for one year. The New York Post reported this story last Thursday. In that story, the same controversy and dispute emerged over why Chen was being asked leave. But someone in that story made the point that during Chen's time at NYU, he was not visible in terms of the University's programs, or those of the law school. He was not asked to teach classes or deliver lectures. In other words that story suggested that NYU all along was worried about the implications of Chen's presence in terms of the reaction of the Chinese government. The same tensions are present, if one looks carefully, in the New York Times article. There are reports there about attempts to discourage Chen from speaking out or traveling. Even if those reports are exaggerated or subject to another interpretation, it is still clear that NYU never did promote Chen in any way. I am not criticizing NYU really because they were there for Chen when he needed it. He certainly will be fine now. The real story, and this is clear also in the Post and the Times, is the influence of the Chinese government in American academia and in the world generally. I have seen this personally. When I have attempted to raise the issue of Chen's treatment and the treatment of Chen's family still in China with the deans of law schools in the United States that have programs in China, I have received some response but mostly nothing from most schools. Of course, I was going outside channels, as people at my law school, Duquesne, have pointed out. When the matter is raised more formally in the fall, the reaction may be very different. This is possible, but I wonder. If it is the case that large institutions in America, academic and otherwise, from universities to auto companies to Hollywood, must temper what they say and do for fear of losing the Chinese market, then it is up to smaller institutions, perhaps like Duquesne Law School, which also has a program in China, to take a stand for principle. We would have less to lose than a NYU.

Title: Growing Secular Hostility Toward Religion in Europe

Date: 2013-06-18T19:34:00.004-04:00

6/18/2013—The New York Times reports today, in a story by Andrew Higgins, about increased efforts by secularists in Europe the ban all religious imagery from what Americans would call the public square. One vignette in particular was telling. Last year, the national Bank of Slovakia announced that the European Commission, the executive arm of the European Union, ordered the national Bank of Slovakia to remove halos and crosses from commemorative euro coins that were due to be minted. The coins were intended to celebrate the 1150th anniversary of Christianity's arrival in Slovak lands. The Commission violated European rules that ban any tilts toward a single faith. Now this does seem peculiar. If one can commemorate 1100 years of Christianity, then one must do so with Christian symbols. It is not as if this history never happened. And unlike American experiences in this regard, this really was a historical commemoration—not a disguised propaganda push for Christianity today. As the article makes clear, aggressive secularists wishing to ban religious symbols is not the whole story. There is another divide in Europe: mostly secular Western Europe vs. profoundly religious nations in the east, like Poland. In the instance that issue, the Slovakian euro, France, perhaps the most aggressively secular country in the world, brought the complaint. And secular belief, meaning really nonreligious belief, meaning really non-Christian belief, is widespread to a degree that is shocking to any American. For example, the Times reports that in Britain more people believe in extraterrestrials than in God. In Europe as a whole half the population believes in God, compared with over 90% in the United States. The article ends somewhat ambiguously. The Slovakian euro, with halos and crosses, is finally coming out. But it is fair to say that many secularists consider hostility to religion to be the equivalent of a way of life. Eventually, we will find out that hostility toward religion is not a philosophy. It is indeed a distraction from developing a genuine, secular way of life.

Title: So, Is Religion Disappearing or Getting Stronger?

Date: 2013-06-24T05:35:00.002-04:00

6/24/2013—A book entitled *Strange Rebels: 1979 and the Birth of the 21st Century*, written by Christian Caryl, was reviewed by Ferdinand Mount in the June 20, 2013 issue of the New York Review of Books. The review was entitled When Our World Turned Upside Down. In the review, Mount quotes a comment by Kanan Makiya, an Iraqi dissident concerning the 1979 revolution in Iran that brought down the Shah and brought the Islamic Republic to power.

“Here we had these forces that we thought we had consigned to the dustbins of history that reappeared and turned out to have nothing to do with what we had always expected. The working classes were nowhere to be seen. All the categories through which we had viewed the world had fallen apart.”

Religious people in America, especially in universities, like to point to quotations like that in order to show that, as they put it, “religion is back.” They say this sort of thing to criticize the secularization thesis that in the 19th century predicted the demise of religion. This kind of thinking has also led to the literary industry of “post-secularity.”

It is certainly true that in the late 20th century there was an upsurge of religious commitment, or maybe it was just an increased political involvement by religion, in the world. And it is also true that it was experienced by secularists at the time as quite unexpected because they had assumed that religion was dead, especially as a moving force in history.

But I believe this upsurge was a kind of illusion, a temporary condition. Yesterday, there was a story in the New York Times about Sunni recruits from Egypt to help the Syrian rebels against a coalition led by the Syrian government that is increasingly dominated by Shiite forces and resources from Hezbollah and Iran. In other words, the Syrian Civil War is now becoming a full scale sectarian War of Religion.

I think we are seeing a replay of the period of the wars of religion in Europe in the 16th and 17th centuries that began shortly after the onset of the Protestant Reformation in 1517 and is said to have lasted until 1648. The vast secularization of European culture began when these wars ended. During these religious wars, it would’ve been hard to see them as presaging secularization. Yet, because of the exhaustion that these wars produced, that is precisely what happened.

Fifty years from now, in 2163, it will be possible to look back at the current period as inducing the same kind of exhaustion. War and terror are associated with Islam, fairly or not—and, as I have said, I think not. Soon, though I do not know when, the Muslim world will collectively decide, as the Christian world in Europe did, over 300 years ago, that religion is too divisive and dangerous to be taken so seriously. And they will tame it. And then the other religious traditions, which are today reacting to research and Islam, including Hinduism, Buddhism and Christianity, will also settle down. And secularization will really take off in the world.

Title: The Other Side of the US Supreme Court Decisions

Date: 2013-06-29T05:36:00.003-04:00

6/29/2013—I find myself looking at the three recent US Supreme Court decisions from a different point of view from most people. The three cases are *Shelby County v. Holder*, the case that struck down preclearance under the Voting Rights Act, *Perry v. Hollingsworth*, the case that dismissed the defense of Proposition 8, and *US v. Windsor*, the case that struck down section 3 of the Defense of Marriage Act.

The *Shelby* case held in effect that the states are equal and that Congress could not rely on conditions after the Civil War or even in the 1960s to treat the states differently in 2013.

The problem is really not *Shelby*, it is all the other Supreme Court decisions. The truth is that the states are equal—they are about equally racist and vote suppressive and the Supreme Court will not do anything about it. For example, shortly after *Shelby* was handed down, Texas moved to implement voter ID. This was clearly aimed at suppressing groups that will vote Democratic, including racial minority groups. People saw this action as proof that *Shelby* was wrongly decided. But my state, Pennsylvania, already implemented voter ID for the same reasons. This shows in a weird way that *Shelby* was correctly decided. (It also shows that voter ID should be held unconstitutional, but that is what the Supreme Court will not do).

The same thing is true of political gerrymandering. That undemocratic act is why the Republican Party controls the House of Representatives. Again, this shows that the states are the same. The Court should find political gerrymandering to be unconstitutional.

Perry, the Proposition 8 case, leaves us in a really lawless condition. The entire state of California is governed by a decision by a single federal District Judge. And, the euphoria of people notwithstanding, there were probably not five votes on the Supreme Court to actually uphold the District Judge's decision. That means that the entire state of California is governed by a presumptively mistaken decision by a single federal District Judge. In addition, the case only held that the outside parties challenging the District Judge's decision lacked standing. The Governor of California or the Attorney General would have had standing. So California is governed by a presumptively mistaken decision by a single federal District Judge because the executive branch in California will not do its job and uphold California law. This is no victory. It would have been far better if a new Proposition had legalized gay marriage in California.

Finally, while I am personally very happy that the vicious Defense of Marriage Act has been struck down in pertinent part, I have to ask how it is that the states get to decide how the federal government spends its money and grants its benefits? *Windsor* seems to be a gross interference by the states in the workings of the federal government. I absolutely disagree that marriage is something only the states can decide when the decision has only to do with federal resources and not those of the states. It just shows how result oriented law has become that liberal justices joined a decision emasculating the federal government and conservative justices wrote and joined a dissent in favor of centralized governmental power. Not one justice crossed the result line that he or she favored.

What is great about *Windsor*, however, is that it will destabilize states that currently ban gay

marriage. It appears that if you are married in Boston and are a gay couple, you lose your status as married if you move therefore, to Philadelphia or Pittsburgh. This means that gay couples will not move to those cities. The loss of benefits and status would be enormous, from federal tax rates, to employment and medical benefits, to inheritance.

And that is not all. Not only will these couples not move to Pittsburgh but companies that might in the future wish to attract such couples will also not set up shop in Pittsburgh. And that is not only a lot of companies but many of the best and most important companies.

And not only that, but gay people who are not married but wish to be in the future will have no reason to stay in Pittsburgh or move here. You might as well put up a sign that says gay people are not welcome in Pittsburgh, Philadelphia and Pennsylvania. Of course it is only justice that Pennsylvania will be harmed by all this. But it is not a consequence that businesses in Pennsylvania that are not free to leave are going to put up with. And a lot of those business people are Republicans. Relatively soon, states like Pennsylvania are going to be forced to adopt gay marriage. That is at least one good thing that the Supreme Court accomplished this week.

Title: Is Opposition to Gay Marriage Irrational?

Date: 2013-07-02T03:44:00.002-04:00

7/2/2013—There is a blog thread running through a law professor site discussing the dissent by Justice Alito in the DOMA case, *US v. Windsor*. Justice Alito wrote that it was rational for Congress to oppose gay marriage. Justice Kennedy, in the majority opinion, had written that the exclusion of lawful, state-recognized, gay marriages represented a mere desire to harm an unpopular group and was therefore a violation of due process. The mere desire to harm an unpopular group is not a legitimate state interest and is irrational and therefore unconstitutional.

So the question became whether there could be a legitimate reason to oppose gay marriage other than this kind of irrational dislike of gays. Not only did Justice Alito say that there could be, he suggested what it was. He wrote that there were two conceptions of marriage: one, an institution fostered by the government to promote the rearing of children and thus limited to a man and a woman and the other an institution of love and affection between two persons. The former is the classic understanding and the latter is the current, modern understanding. But it is arrogant, I think that is the word that Justice Alito used, for law professor types to argue that holding the first view is irrational.

Ruth Ann Dailey wrote in the *Pittsburgh Post-Gazette* that conservatives resent hearing that their opposition to gay marriage is irrational. This dispute is a good example of how hard it is for Americans who disagree with each other to listen to each other. Irrationality in law is supposed to mean a policy that has no legitimate justification. It is indeed an insult to say that somebody is irrational in their political positions.

Although they should know better, the law professors in this blog thread are arguing over just this point: whether opposition to gay marriage is irrational. I am not sure I understand what it means to say that millions of my fellow Americans are in fact irrational.

The other aspect of this thread is that Justice Alito's position is religious and thus in some sense a violation of the establishment clause. He was said to represent the position of the Catholic Church. The idea was that any deep opposition to gay marriage must be based on religious tenets.

This is another will matter of deep division. People do not normally know why they oppose this or that. I oppose the death penalty and I always have. Undoubtedly, some of that opposition comes from my religious training. People oppose unfair treatment of gays. Undoubtedly some of that opposition comes from religious training that says all people should be treated with dignity. Getting into the reason that someone holds this of that position is usually not very helpful. In any event, Justice Alito would certainly deny that he was merely mouthing the policy of the Catholic Church.

As readers of this blog know, I strongly support gay marriage and I have for years. But I never wanted the courts to do it. I oppose the *Windsor* decision because I think the federal government should have just as much right as the states to decide how federal resources are spent. But as to the underlying question of gay marriage itself in court, I cannot say that opposition to gay marriage is either inherently religious or irrational.

Back in 1967, the question was not sexual orientation, but race. Virginia still made it a crime for whites and blacks to marry. The Supreme Court simply held, in *Loving v. Virginia*, that this was an unconstitutional use of race. Supporters of gay marriage assert that all the reasons people use for opposing gay marriage are essentially the same as the reasons used to oppose interracial marriage. In a sense I guess they are right. Opposition to interracial marriage was based on a kind of social conservatism and on a prejudice against a group.

On the other hand, lots of places had not banned interracial marriage. Gay marriage, in contrast, is a huge social experiment. Marriage has generally been between genders all over the world for thousands of years. So, the feeling that maybe gay marriage is a bad idea is surely a reasonable bit of social conservatism. I don't agree with it but I understand it.

Title: The Egyptian Disaster for Democracy

Date: 2013-07-04T13:39:00.002-04:00

7/4/2013—Happy Fourth of July. How ironic it is that on this day celebrating American independence and the creation of the first large-scale democracy in human history, so many Americans are pleased that the army coup in Egypt. Yes there were many demonstrators, maybe even more than voted for Morsi in the first place. But democracy is not a poll. Democracy also has to do with regular procedures. We do not ask the Army to depose an unpopular president in the United States. We wait for the next election. Those celebrating the action of the Army today, may rue the day tomorrow, when the Army frustrates their democratic success. I had to laugh at the idea that the Army deposing a popularly elected president could be anything but a coup. I read and heard the comment, some people are calling it a coup. What else, exactly, could it be? There is a reason of course why some Americans are celebrating the Egyptian Army's action. Morsi was an Islamist. He represented the interests of the Egyptian Brotherhood. Many Americans, liberals and conservatives for differing reasons, oppose even democratically elected Islamist regimes. They felt that way about Morsi. They feel that way about Turkey. But why cannot a majority of Egyptians wish to be led by an Islamist government? Yes, there are things that a democratic government may not do. But Morsi had not ended freedom of speech or of the press. He had not canceled future elections. He was carrying out unpopular policies. His party would be defeated eventually. And then, maybe, Islam would really have had to come to terms with democracy. Not now. In a very good report on NPR, I heard an academic expert on the Middle East state that the real winner in Egypt today is Al Qaeda. The real controversy in Islam was between defenders of democracy, like the Brotherhood, and those promoting violence, like Al Qaeda. Well, how many Muslims will now turn to violence? Americans have not been able to figure out the proper role and limits on religion in public life. In today's Pittsburgh Post-Gazette, there is a full-page ad on A14 the back page of the first section stating in large letters In God We Trust. The ad points out that presidents and our founding fathers supported religion in general and Christianity in particular as central to popular government. Today, we doubt that. But I hope the working out of that relationship will not be left up to the Army, but to democracy itself.

Title: The Face of Secularization

Date: 2013-07-07T15:25:00.002-04:00

7/7/2013—I have been asked on numerous occasions what I mean by the term secularism. Charles Taylor, in his book *A Secular Age* gave three descriptions of secularity: the decline of affiliation with religion, the withdrawal of religious imagery from the public square and public life, and the decline or difficulty in belief—that belief in religion is merely an option. By secularization I point to all three of these phenomena. But when I speak of a secularist, I mean only the first. Secularists are not institutionally involved with organized religion. It is this aspect of secularization that is rapidly growing in America. A vignette from last week will illustrate the point. Not only are people not going to church, the young increasingly do not know anything about religion. One of the firefighters who died in the super fire last week was remembered in San Francisco, where I guess he came from. A kind of memorial service was held honoring his memory and National Public Radio covered a part of that service. It was a very informal. I think it took place outside. Much time was taken telling stories about this person who seemed to have been a genuinely wonderful young man. Toward the end, when things were winding down, someone announced that the group would recite The Lord's Prayer. Then this person added, clearly to be courteous, "if you don't know it, please bear with us." This was striking. Yes, it is true that many millions of Americans have not known of The Lord's Prayer. Jews for example might not have known it. But it is fair to say that since 80 or 90% of Americans have always been Christian, in a public gathering it could be assumed that everyone knew the Lord's Prayer. Apparently, this is no longer true. And since this service took place among the friends and family of this young firefighter, it must especially not be true among the young. That is my impression. Secularization in America is going to mean that more and more people simply have no contact with the images and rhythm and language of the Bible. That is quite a different America.

Title: Should We Discard the Constitution?

Date: 2013-07-11T04:51:00.001-04:00

7/11/2013—In a recent issue of the New York review of books, Georgetown University law professor David Cole reviews a book by Lewis Michael Seidman entitled *On Constitutional Disobedience*. According to Cole, Seidman argues that we should give up on the Constitution altogether. Not only are individual decisions bad, such as *Citizens United*, and not only is it harmful allowing the Supreme Court to have the final word on important social issues, the whole notion of constitutionalism itself is little good and mostly bad. The question is, what should we expect from the Constitution? It seems to me we should expect very little. After all, public officials should not be violating the Constitution all the time. I don't mean that it would be wrong to do so, but that presumably they would know better. If constitutional litigation goes on all the time, there is something wrong. The something wrong is expecting the Supreme Court to resolve difficult social questions. Gay marriage is a perfect example. Having won partial victories recently in the Supreme Court, including an important victory in the Windsor case holding DOMA unconstitutional, the ACLU in Pennsylvania filed suit challenging Pennsylvania's prohibition on gay marriage. But all the political momentum right now is favoring gay marriage. Why should the courts step in at all? My mentor and teacher suggested to me recently that law is not politics. Law is logic. And that is especially true when law is at its best. Politics is not that. Politics is about accommodation and making arrangements and seeing things from another point of view. Public life, and specially disputes in public life, are not resolvable through logic. When proponents of gay marriage argue that the traditional definition is irrational, for example, they are engaging in a kind of self-delusion. It just cannot be irrational to favor leaving a core institution of society the way it has been for thousands of years. The Court earned its pay twice over the last 10 years. And maybe that should be enough. The first instance was in 2004 in *Hamdi v. Rumsfeld*, in which the Supreme Court put a bit of a break on President Bush's war on terror. It was not a very big decision, but it was a halt and a needed one. The second instance is a decision I greatly disagreed with, the Obamacare case, *National Federation of Independent Business v. Sebelius*. The reason this case is important is that it raised the issue of limited government. I don't really agree that there should be important limits on what Congress can do. But the fact that there are such limits and that the Supreme Court will occasionally enforce them, is a very good habit for a democratic people. How long would we remain free if limits on government were not even an issue? So by all means keep the Constitution and the Supreme Court. Just be satisfied with less from both.

Title: Political Grandstanding on Gay Marriage

Date: 2013-07-14T13:24:00.001-04:00

7/14/2013—This week Pennsylvania Attorney General Kathleen Kane announced that her office would not defend Pennsylvania's ban on same-sex marriage because she could not do so in good conscience. Now I believe I am as much in favor of gay marriage as Kathleen Kane—in fact I would guess that I have supported it publicly longer than she—but I do not see this decision is any kind of victory for gay rights. It seems to me a victory for hypocrisy and the misuse of public office for partisan purposes. The office of Attorney General in Pennsylvania is essentially a creature of statute. The Attorney General is independently elected but the office seems to lack any constitutional authority in terms of law enforcement. This means that to know the responsibilities of the Attorney General, you have to look at the Commonwealth Attorneys Act. That statute provides that the Attorney General shall uphold and defend the constitutionality of all statutes. There are two sort of exceptions to this rule. For one thing, no one should defend a statute that has been overturned by a court of competent jurisdiction and that is so provided in the statute. But whatever one thinks of bans on Gay marriage, such bans have clearly not been held unconstitutional in the Third Circuit or by the US Supreme Court. So this exception simply does not apply. Kane is attempting to utilize a second exception to her obligation to defend statutes. The act also provides that the Attorney General may refer a case to the Office of General Counsel, which is located in the office of the Governor, when doing so is more efficient or is otherwise in the best interest of the Commonwealth. Kane claims that this amounts to sole discretion to refer a case to the Governor's Office. But this is not so. While no court is likely to take a case because of the breath of the Attorney General's discretion, that discretion is still limited by law. In this instance, it is not in the best interest of the Commonwealth for the Attorney General to refer the case to the Office of General Counsel. It is simply in the Attorney General's best interest. What really bothers me about this situation is that criticism of the Attorney General has come from people who support the ban on gay marriage, whereas support has come from people who favor gay marriage. It is as if the process issue of faithfully carrying out the responsibilities of your public office does not matter at all. If Attorney General Kane has a crisis of conscience over defending the laws of Pennsylvania, then the honorable course would be to resign.

Title: Taking a Temporary Break From the Hallowed Secularism Blog

Date: 2013-07-15T11:34:00.000-04:00

Until Saturday, 7/27/2013. Happy travels to all.

Title: Pro-Life Liberalism

Date: 2013-07-28T16:54:00.003-04:00

7/28/2013—While this blog was suspended for travel, two items appeared in the media of what might be called Pro-Life Liberalism. In the first, Kurt Kondrich wrote in the Pittsburgh Post-Gazette on Wednesday, July 17, 2013, about a couple who advertised the pregnancy of a child with Down Syndrome. The couple apparently indicated that they wanted to give the child up for adoption but if they could not do so that the woman would seek an abortion. Kondrich reported that many people indicated a willingness to adopt this unborn child and that an adoption agency is now sifting through the applications.

In the second, a week ago, on Sunday, July 21, 2013, Ross Douthat wrote a column in the New York Times Sunday edition comparing the state of Texas and its proposed abortion restrictions with those of Western Europe. Surprisingly, he reported that the Texas proposed restrictions were similar to restrictions already imposed by France, Germany and Italy. He noted that critics of the Texas proposed restrictions have suggested that they would have deleterious effects on women. This does not seem to be the case in these countries, however.

But Douthat's major focus was on Ireland. Ireland has operated for many years with practically a complete ban on abortion. While this restriction has been recently expanded somewhat, on any indication of the welfare of women, Ireland ranks quite high.

Douthat then took his column in rather a strange or at least unexpected direction. He suggested that Ireland's experience did not justify Texas's restrictions. He raised the suggestion that the important difference between Texas and Ireland might have to do with universal healthcare, "which Rich Perry's state conspicuously lacks".

Here is how Douthat closed his column: "So perhaps, it might be argued, abortion can be safely limited only when the government does more to cover women's costs in other ways -- in which case Texas might still be flirting with disaster.

But note that this is a better argument for liberalism than for abortion.

It suggests, for instance, that liberal donors and activists should be spending more time rallying against Perry's refusal to take federal Medicaid financing than around Wendy Davis's famous filibuster.

It implies that the quest to 'turn Texas blue' should make economic policy rather than late-term abortion its defining issue

And it raises the possibility that a pro-life liberalism -- that once commonplace, now mythical persuasion -- would actually have a stronger argument to make than the one Texas's critics are making now."

Those of us who favor liberal economic policies and disfavor abortion have rarely made the case as well. And people who claim to be liberal, but whose focus has been more or less solely on abortion and not on care for the poor, have rarely been presented for such a compelling statement.

Title: A Theology "As If"

Date: 2013-08-01T18:44:00.003-04:00

8/1/2013—I have been reading in the theology of one of the giants of the 20th century, Hans Urs von Balthasar. Balthasar was a Swiss theologian and priest who died in 1988. He was one of the most important theological figures of the 20th century. Perhaps his most significant work was a three volume theology exploring the good, the true and the beautiful: *The Glory of the Lord*, *Theo-Logic* and *Theo-Drama*. To read Balthasar is to be reminded of the greatness of the Christian message. I read yesterday about the core of the gospel, which is the broken heart of God poured out for humanity. I read today about the radical implications of the incarnation – – how it changes all of our understandings of everything we are and do. Put the matter crudely, now that God is all in, we each must also be all in. In particular, Balthasar uses the image of marriage in his interpretation of St. Paul to explore incarnation. When the Old Testament speaks of marriage, Balthasar believes it is dealing with the juridical and ethical concept. But when marriage is referenced in the New Testament, as in the marriage of Christ and his church, the emphasis is on one flesh. Transferred to incarnation itself, this means that God and creation are now one flesh. The implications of Balthasar's thought are rich and startling. But I don't wish to address them this second. Rather, the question is, what difference does it make if the incarnation is not true? This is the key question for secularists like myself who are plainly in love with Christian theological thought. Somehow, we need to live by the insights of religion even though we cannot accept the premises of our religions. Surprisingly, this matter has actually been thought about in a slightly different context years ago. The work is entitled *The Philosophy of As If: a System of the Theoretical, Practical and Religious Fictions of Mankind*. The book was written in 1911 by the German philosopher Hans Vaihinger. Vaihinger's view was that while sensations and feelings are real, the rest of human knowledge consists of fictions that can be held to be true pragmatically but cannot be discovered to be true or not. Vaihinger asked whether it is useful to act "as if" these fictions are true. I wonder if Vaihinger might represent a way out for secularism. It's better to live as if our religions are true even though they are not.

Title: Hannah Arendt and the Banality of Evil

Date: 2013-08-04T13:38:00.001-04:00

8/4/2013—I attended a showing of the movie, Hannah Arendt yesterday in Pittsburgh. I have a number of reactions to the movie and I will be referring to them in this blog over the next few days.

One reaction is that the person who reviewed Hannah Arendt's book about the Eichmann trial was none other than Michael Musmanno, Justice of the Pennsylvania Supreme Court from 1952 to 1968, who served as part of the prosecutor team at the Nuremberg trials and was a witness in the Eichmann trial in Jerusalem. Musmanno was very much a part of the controversy over Arendt's view of Eichmann. (I take some pride in this sense the Musmanno archives are located here at Duquesne Law School).

The most important part of the movie was a line that may or may not have been uttered by Arendt. Toward the end of the film, she says, almost to herself, that the real error that she made was not in referring to Eichmann as banal and his evil as banal, but in referring to the evil involved in the Holocaust as radical. Evil, she concludes, is never radical. Only good can be radical. I guess you could extrapolate and say that evil can be destructive, very destructive, but is always the same. Only good is really creative. This is a very profound thought for us to consider.

In retrospect, what is to be learned from the controversy over Arendt's reporting on the Eichmann trial, and the resulting book, *Eichmann in Jerusalem: a Report of the Banality of Evil*? In the movie, what infuriated people was a kind of empirical observation that if the Jews had not been so well organized, and if the Jews had not had such effective leadership, the Nazis would have had a hard time killing so many people.

As a purely empirical matter, I don't have any idea whether this is true, but it does not seem to be something to be upset about. There must have been a deeper implication, which is only hinted at in the movie, that this observation is not about organization but is about decision-making. In some way that is not clear to me, Arendt must have been understood as suggesting that the Jewish leadership in question decided to cooperate with the Nazis rather than to oppose them.

If this is in part what the controversy was about, the strong reaction is understandable. There were obviously no good choices available to any Jew in Europe confronting the Nazis. If a particular Jewish leader decided that some kind of organization was healthier for everyone than a complete breakdown in society, well, who can say that this was a poor choice?

Musmanno's criticism of Arendt was very different. Primarily, he denied that Eichmann was banal and he denied that Eichmann was primarily a bureaucrat. Musmanno insisted that Eichmann hated the Jews like any other fanatical Nazi and that his actions could be understood much more as a matter of personal guilt than as systemic and structural. In other words, Musmanno disagreed with Arendt philosophically, at least in this instance.

Title: The Christian Case Against Gay Marriage

Date: 2013-08-09T16:29:00.001-04:00

8/9/2013 – – I am beginning to wonder just what the Christian case against gay marriage is. I understand the Jewish case against gay marriage. It is based on the purity codes. Homosexual relationships are like eating ham: they are unclean behaviors. But the new covenant in the New Testament has done away with all this. Paul seems to condemn homosexuality as unnatural. But this is strange, considering that it is also Paul who states that in Christ there is neither male nor female, slave nor free. In other words, gender no longer matters. This leads me to believe that what Paul is really condemning in context is the lust that he mentions, not homosexuality. Obviously, there is such a thing as immoral, destructive and exploitive homosexual sex, just as that is obviously true of heterosexual sex as well. Gay marriage, of course, is about committed, loving relationships. This is probably very far from Paul's concern. In any event, Paul is not Jesus. Not only is Jesus not interested in condemnation based on the purity codes, he addresses the matter of marriage in only one place that I know. He quotes Genesis about man and woman in marriage. But, ironically, his point, in replying to the Pharisees, is to condemn their permissiveness about divorce. Many of the Protestants who condemn gay marriage have come to terms with divorce. But it is divorce, not gay relationships, that concerns Jesus. Divorce is what Jesus condemns. This is not surprising, for divorce is a matter of the breaking of commitment. That is precisely the kind of action that would cause a condemnation from Jesus. To those who condemn gay marriage, I rather think that Jesus would reply, "marriage is made for men and women, not men and women for marriage."

Title: Reza Aslan Speaks to the Commonwealth Club

Date: 2013-08-11T10:07:00.001-04:00

8/11/2013—I was listening to Reza Aslan, the author of *Zealot: The Life and Times of Jesus of Nazareth*, the one who was famously interviewed on Fox leading to the bestseller status of his book. He was fascinating. Aslan was speaking to the Commonwealth Club on a regular series on National Public Radio, broadcast in Pittsburgh on Sunday mornings. Aslan made two points in the time I heard him. First, the nature of Jesus and his message and second, the history of Christianity. In terms of Jesus, Aslan called Jesus his “hero.” Jesus, Aslan said, was concerned only for the poor and the marginalized. That was all he cared about. Aslan was taught about Jesus by the Jesuits (I don’t know where) and Jesus’s “preferential option for the poor.” This was his message, his life and his death. Aslan’s closed with this: anyone who uses Jesus to advance a political position or enrich himself betrays the legacy of Jesus. Aslan is so obviously a believer in Jesus, although not a Christian but a Muslim, that his words moved the highly secular audience to applause. Hearing Aslan’s personal commitment to Jesus was inspiring. But probably more significant is his view of early Christianity. Aslan describes the Church after the death of Jesus but before the destruction of the Temple in 70 A.D. as choosing between the vision of James and the vision of Paul that the future of Christianity. For James, the brother of Jesus, the Christian movement remained within Judaism. The message could and should go out to non-Jews, and eventually it was agreed that they need not be circumcised, but they would have to live in accordance with the law Moses as, essentially, Jews. Paul’s vision was quite different. He understood Judaism as having come to an end with the death and resurrection of Christ. And the Christ figure he describes is not the Messiah of the Old Testament but an eternal being, in some sense a part of God. This is something wholly new and outside Judaism as such. It is at the very least a total re-interpretation of Judaism and, it would be fair to add, Judaism’s fulfillment, in Paul’s view. Eventually, the death of James and 62 A.D. and the destruction of the Temple by the Romans in 70 A.D. decided the matter in favor of Paul. But it had been a near thing. While James was alive, his vision was dominant and the Church in Jerusalem was also dominant. That Church and that movement was essentially destroyed along with much else when the Romans destroyed Jerusalem. Aslan is quite a figure. It is to be hoped that this is the Islam with which Americans now become more familiar.

Title: The Feast of the Assumption and the Disaster in Egypt

Date: 2013-08-15T14:27:00.000-04:00

8/15/2013—The news today was filled with the catastrophe in Egypt. Hundreds of people are dead. And there is no prospect immediately for the resumption of democratic rule. This is what happens when democracy is not trusted. If the Army had waited until after Morsi had canceled elections or free speech, the situation would be completely different. Perhaps the Muslim Brotherhood in Egypt was determined to install a dictatorial regime. But we will never know. In a larger sense, the question is the relationship of Islam and democracy. It is not necessarily the case that religious rule is consistent with democracy. On the other hand, the Catholic Church in Europe did ultimately come to terms with democratic rule and with religious liberty. There is no inherent reason why this should not be the case in Islam as well. The question that is not being asked is whether secularists are prepared to accept religious democratic regimes? There have now been several occasions in which democratically elected religious parties have either been prevented from taking office or have been removed from office at a later point. We must learn to defend democracy whoever wins the election. As long as future elections are not canceled, every democratically elected government should be America's friend. The Feast of the Assumption that is celebrated today in the Roman Catholic tradition illustrates the wide gap between organized religion and nonbelievers. This holiday celebrates the bodily assumption of Mary into heaven. It is an example of religious belief with which the nonbeliever, and many Christians for that matter, simply can have nothing to do. It is the kind of holiday that leads nonbelievers to assume that there can be no common ground between religious believers and nonbelievers. I have no idea how this gap is to be bridged. Until secularism sees its needs as bound up in the religious traditions, that is, sees how secularism is subject to the death of meaning and has no resources to deal with the death of meaning, there is not much hope. A confident secularism will never come to terms with religion.

Title: If Materialism Goes, What Goes With It?

Date: 2013-08-19T04:50:00.002-04:00

8/19/2013—Thomas Nagel argues that materialism, and its variant in Darwinian thinking, cannot account, practically in principle let alone in fact, for reality: in particular, the emergence of life, or consciousness, or self-consciousness, or cognition, or value determination. The problem with life is time and the actual mechanisms. Consciousness is subjective and the link between physical processes and subjectivity, even for animals, seems insoluble. By cognition, Nagel means the mental functions of thought, reasoning and evaluation that are limited to humans, as far as we know. Here the issue is that cognition transcends the immediate world and cannot be explained by evolutionary factors. The same is true of value orientation by humans that would seem to have no survival benefits. Leaving aside whether Nagel is right, I would like to assume for the moment that he is. What else goes when materialism goes? How much of the popular worldview of secularism is premised on materialism? For example, I just read a great critic of religion, Professor Marci Hamilton, invoke natural law principles to defend the right to abortion. But the natural law tradition, or the version we associate with Hegel, arises out of monotheism absolutely. If rights are real, in contradiction to materialism, which posits that only matter is real, where do they come from (to put it crudely)? Nagel says that once materialism is jettisoned as an explanation of the world, one is left with theism, which he rejects as implausible (no being separate from nature with an intention can exist given everything else we know) or some form of teleology somehow built into nature from the start. The latter is his position, but as H. Allen Orr pointed out in reviewing Nagel's book, this would require a whole new approach to everything. What I'm hoping is that the religious and nonreligious might meet in teleology.

Title: The Question of God Against the Background of Secularization

Date: 2013-08-21T16:05:00.002-04:00

8/21/2013—EWNT News reports today that former students of Pope Benedict XVI will meet to discuss the question of God against the background of secularization. The group of students, called the "students' circle," has met to discuss theology and the life of the Church since 1978, when professor Ratzinger became a bishop and left academic life. This year's meeting of the group will be held from August 29 to September 2. Interestingly, Pope Benedict chose the topic, as well as the guest speaker, the philosopher Rémi Brague. Over the years, Pope Benedict participated in the annual meetings, but this year he will not do so. Last year the group discussed ecumenism. The choice of topic is significant. Benedict once said that the truths of religion must be plausible in every age. The growth of secularism is a background fact with which theology must contend. Benedict's view presumably is quite different from simply considering secularization to be rebellion against God. It is not surprising that a Benedict would approach matters in a nuanced way. If only secular thinkers could discuss the very same issue: the question of God against the background of secularization. If only secular thinkers could do more with the concept of God than simply dismiss it as superstition. I do not know how the proceedings of this group are publicized, if they are. But I believe we would all benefit from hearing what these well-informed and thoughtful former students of Pope Benedict had to say on this topic.

8/24/2013—In the Pittsburgh Post-Gazette today, Charles Krauthammer has a column in which he calls the decision by the Egyptian military to stage a coup a "Hobson's choice." There were no good alternatives according to Krauthammer. The United States, he suggests, should not be so emotional about this loss of democratic rule. Sometimes autocracy is better even for democracy in the long run. Krauthammer likens the choices in Egypt to situations in which the United States used to have to choose in the Cold War between communism and authoritarian regimes. Those authoritarian regimes sometimes could evolve into democratic regimes. This faux realism is exemplified in an observation made toward the end of the column. After pointing out that autocratic regimes like that of Pinochet could become Democratic over time, Krauthammer asks, sort of rhetorically, "how many times have communists or Islamists allowed that to happen?" But of course the answer to that question, in light of the coup in Egypt, is, how many times have Islamists been allowed to leave office peacefully? The Islamists in this instance in Egypt were democratically elected. The choice was in no sense between rival dictatorial movements. Krauthammer answers this implied criticism not by making his own judgment, by attributing a judgment to the General who staged the coup: "General Abdel Fatah al-Sissi seems to have calculated that by then [three years from now when elections were scheduled] there would be no elections — — as in Gaza, where the Palestinian wing of the brotherhood, Hamas, elected in 2006, established a one man one vote one time dictatorship." Krauthammer is making a serious mistake. He does not see that the possibilities were broader than coup or no coup. If the United States were seen as supporting the end of democracy in Egypt, this would be further proof to the Muslim world that the United States does not really care about democracy, but only about containing Islam. Of course it is true that there might have been a coup by the brotherhood itself, and elections canceled. But the Army could have acted then. In any event, the larger question is, can there be Islamic democracy? The only way to find out is by letting popularly elected Islamicists rule. This question — can there be Islamic democracy? — — is the key to long-term peace in the world. That is why the United States must not be seen as supporting this coup. And I notice that Krauthammer's allies are much less interested in a secular Constitution in the United States than they are in such a Constitution in Egypt. A genuine democracy in Egypt is not going to exclude those devoted to Islam. The idea that such a democracy could exist, a secular democracy in that sense, is behind Krauthammer's support for the military coup. This means that Krauthammer really does not want democracy in Egypt. He is afraid of what the people of Egypt might really want in their foreign policies and military policies.

Title: No New Year for Secularists

Date: 2013-08-29T05:04:00.000-04:00

8/29/2013—Rosh Hashanah, the Jewish New Year, begins this coming Wednesday night. The Jewish New Year festival is not complete until the end of Yom Kippur, the Day of Atonement, on Saturday night, September 14. This information came to me this year as something of a shock. Because I no longer inhabit a Jewish world, I have completely lost the rhythm of a sacred calendar that used to be very meaningful to me. Since I am studying Christian theology four days a week, I am still in contact with a sacred story of the universe. But I realize how little depth there would be in my life otherwise. One day would pretty much be like another. The rhythm of life would be set, and is set really, by secular events, such as the beginning of the school year, my neighborhood house tour, the local YMCA speakers series, Halloween and so forth. There is nothing wrong with such a rhythm, but there is something missing. When I lived in a sacred space and time, even though I was really not a believer for much of my life, I was regularly confronted with questions that define a human existence: am I thankful for my existence?, what is the ground of existence?, what is the meaning of existence?, what do I regard as holy and apart from ordinary things?, what does history teach?, to what is my life dedicated?, and most important, have I been faithful to the promise that is my life? That last question gets asked in secularism in a perverted way—have I worked hard, have I been creative, even have I lost weight? This does not capture faithfulness. The faithfulness question is this: have I retained reverence for the miracle of existence and have I treated everyone and everything around me out of that reverence? The answer is no, of course. And that finally is the deeper meaning of a sacred calendar. That calendar offers the promise of renewal. That is what repentance during the Days of Awe—the name of the Jewish Near Year festival—means. That is what a secular life lacks. I am fortunate. I still can remember what living within a religious tradition means. My children may still remember, to a lesser extent. Their children probably will not, or if they do, the children of their children, my great grandchildren, and following generations mostly will not. What will happen then? To them and ultimately to humankind? A deeper secular life is needed. I believe that will happen. But only after the need for this is embraced. That is the task of Hallowed Secularism.

Title: Why Jewish, but Not Christian, Writers?

Date: 2013-09-03T23:23:00.002-04:00

9/3/2013—This past Sunday, the New York Times book review section asked in a column at the end of the book review, why Jewish writers commonly raise issues of faith, but Christian writers do not today. As Dara Horn put it in the column, "whither the Flannery O'Connor's of yesteryear? Marilyn Robinson can't do this all by herself!" Horn gives a number of examples of Jewish writers making references to Jewish motifs, such as the Passover holiday. These Jewish writers by and large are not particularly observant, but the memories of childhood observances remain strong. Some of these Jewish writers seem to practice a kind of postmodern irony, but not all. It is striking that none of the writers Horn mentions are struggling directly with God. This strongly marks a differentiation between this new generation of Jewish writers and older writers such as E.L. Doctorow. This attribute of Jewish writers may explain to some extent the predominance of Jewish references to religion over Christian ones. For one thing, it is much harder for Christians to struggle in any sense with Christianity without struggling with God. Even Jesus is not as compelling a figure absent the issue of his divine nature. Second, Christian writers who are not observant are less likely to remain within Christianity than are Jews, for whom leaving the religion is a much more fraught issue. In other words, the subtitle of the column may be mistaken. That subtitle states "a number of contemporary Jewish writers are engaging with religious belief in their works." But this is precisely what is not apparent in any of the examples that the column actually engages. Instead, the issue really for these writers is the power of past remembrance. These remembrances are largely secular in their content, even if the metaphors and motifs of Judaism are present.

9/7/2013—A couple of weeks ago, in the magazine Sports Illustrated, there appeared a column in which a writer, whose name for the moment escapes me, described his effort this summer to inculcate his five-year-old son in the father's long time love of the San Diego Padres baseball team. Unfortunately for the writer, his family had since moved to Los Angeles. Therefore, he was now taking his son to baseball games at Dodger Stadium. The writer was afraid that his son would develop a team loyalty to the Dodgers, a team whom the writer had always hated. Before the All-Star break, the Dodgers were playing so badly that the writer felt safe. Unfortunately for him, after the All-Star break the Dodgers caught fire and played tremendous baseball. His son was entranced and began to identify with the Dodgers. In terms of sports, his son was lost to him. The writer was of the view that there comes a moment in a young person's life in which a commitment like identification with a sports team is made for life. That moment had come for his son and could not now be undone. Reflecting on this story, I was reminded of a time when my younger daughter was in middle school. She informed her parents one day that she was interested in reading with an evangelical Christian group. I reacted very negatively to this news. Neither rationally nor theologically did my reaction make any sense. My daughter had not developed a particularly strong Jewish identity, nor, given the way that my children were raised, was it likely that she would. In addition, I had especially taught my children to be open in terms of religion and it was no secret that Jesus was a very important figure in my own life. In addition to all of that, my daughter was going to go to a private high school in which she would obviously be reading in the New Testament. I now see that my reaction was very much of a piece with that of the writer in regard to the Padres and the Dodgers. I simply had a visceral feeling that I wanted my daughter to share my identification and loyalty. And even if I had always had doubts about religion, and even if I had always identified with Jesus of Nazareth, my loyalty to Judaism was never really in doubt (and is not in doubt today, despite my nonbelieving situation). My daughter was simply identifying with another team. Of course, the fact that I see this does not in any way lessen the feeling that I had at the time. And I must admit that this entire episode makes me much more sympathetic to members of religious groups who are not particularly observant and not particularly savvy theologically, but who care passionately about the religious affiliation of their children and other family members. If it feels like rejection, then it is a form of rejection.

Title: On the Occasion of 9/11

Date: 2013-09-11T20:44:00.003-04:00

9/11/2013—Today is the anniversary of the attacks on the World Trade Center and the Pentagon and the crash of flight 93. It is a solemn day, filled with great loss. America has been changed by the events of 9/11. But, despite the loss of life, the greatest tragedy of this day is the failure of one of the world's great religions: Islam. 9/11 was a terrible crime perpetrated in the name of religion. In the long run, the grotesque violence perpetrated on this day, the horrible willingness to take absolutely innocent life, stains irrevocably Islam in particular and maybe religion in general. Humankind is fully capable of making a judgment about this matter. Even though 1 billion people in the world practice Islam, and even though the overwhelming majority of these persons condemn the criminal fanaticism of this crime, Islam is still responsible for 9/11. And Islam is further responsible for a great deal more violence in the world. These statements are in no way a defense either of the Israeli occupation of Palestinian lands or of US or other Western policies in the world, either now or in the past. I would even exempt from the charge of religious fanaticism actions taken by Palestinians against the military occupation. Those actions, even if not justifiable, are certainly understandable. But what we see in the world today, and what was present on 9/11, is a kind of cult of violence and terror. Actions such as the attack on the World Trade Center are not strategies. They are terroristic spasms. Such violence is condemned by every religion. But somehow the violence seems to be called forth today by Islam. The result of 9/11 and all of the associated acts of violence during the 21st century can only be the long-term decline of Islam. Just as the wars of religion in Europe led to secularization, as an exhausted Europe turned away from religion altogether, an exhausted world will ultimately turn away from Islam.

Title: Kol Nidre

Date: 2013-09-13T19:06:00.001-04:00

9/13/2013—Tonight is Kol Nidre. This is the holiest night of the year and it is the beginning of the Day of Atonement. There was a story today in the Jewish Chronicle about a Kol Nidre address scheduled for the evening service. The address was about forgiveness, how it might be possible to forgive even the most heinous, terrible crime. I thought that this was a strange place to start for the Day of Atonement. After all, traditionally, Yom Kippur is not about forgiveness but about repentance, the Hebrew word teshuvah. Forgiving others seems a strange place in that context. After all, I am the one who needs forgiveness, not someone else. This strange starting point seems related to a general inability of liberal Jews at least take sin seriously. I also have before me the Yom Kippur greeting from Rabbi Michael Lerner, the publisher of Tikkun magazine. Lerner says this about sin. "Sin is not about some ontological evil in us. We are created in God's image, and our fundamental yearning is for a world of love and kindness and generosity. But we have gotten off the path, missed the mark, and so we need this yearly spiritual tuneup and path adjustment so we can come back to our highest selves." I guess my basic feeling is that sin is about some ontological evil in us and that repentance is impossible without that starting point. Karl Barth wrote that man, all men, are "enemies of God." And we must ask God for forgiveness of our sins. That seems to me to be the message of Yom Kippur.

9/18/2013—Last night my wife, Patt, and I went to hear Reza Aslan, the author of *Zealot*, speak about The Politics of Jesus. Aslan is a very winning figure. He is a very fine speaker and seems to be the kind of person you would want to get to know better. Nevertheless, the actual message he delivered was utterly unpersuasive.

I have not read *Zealot* yet, but what I heard last night is broadly consistent with what reviewers about the book have said: Aslan presents the Jesus of history contrasted with the Christ of faith. The Jesus of history is not distinguishable from the other would-be messiahs of Jesus's time. Jesus's message was that as Messiah he would reestablish the Jewish Commonwealth, oust the Romans and reverse the position of the poor and the rich. This was not much different from what other, similar leaders of the time said to their followers. Aslan said that as a historian, this had to be his perspective. The choice is between a Jesus who fits in his time and place and a Christ who is unique. It is possible that Jesus meant something different by Messiah than did others and it is possible that his exhortations were meant in a more spiritual vein, but it is not probable.

Aslan was then asked the obvious question: why did the Jesus movement survive when none of the other movements did? Aslan's answer was that the followers of Jesus were buoyed by the ecstatic experience described as the resurrection of Jesus and they then began to reinterpret what it meant to be a Messiah.

This is unconvincing because it puts all the weight on the followers of Jesus and none on Jesus himself. There must have been something in Jesus's message, clearly not fully understood while he lived, that suggested this new kind of Messiah.

The unpersuasiveness of Aslan's position is further shown in his response to the second question: would the Jesus movement have developed differently if the James' center of the church in Jerusalem had not been destroyed by the Romans in 70? Aslan described James as the head of the Jewish movement for Jews that was willing to bring non-Jews into the movement as long as they became Jews and followed Jewish law.

But then Aslan admitted that James did not require circumcision of these converts. Jokingly, Aslan called this a good marketing strategy, which is when I left. What Aslan does not seem to understand is that no Jew in the world at that time outside the Jesus movement would have conceived of becoming a Jew without circumcision. James was already not following the law.

The fact that the Jesus movement immediately turned outward, radically including non-Jews in the community, and creating the Paul's ministry to the Gentiles, which was done on the authority of James, shows that fundamentally the universalization of Jesus and Judaism had already begun and would have continued more or less in the same way had Jerusalem not been destroyed. This universalization is the fruit of the uniqueness of Jesus in the first place.

The uniqueness of Jesus is also shown in the way that he opposed Rome. The dichotomy between a celestial Christ and the political Jesus that Aslan also proposed is simply too stark. Like all other Jews, Jesus did oppose the Roman occupation. But everything recorded about Jesus and everything in the historical record describing the actions of his followers prior to 70, suggests that this opposition was not only nonviolent but grounded in a different understanding of the Kingdom of God. Jesus urged meeting the enemy in love. Again, Jesus is unique. He is not just extraordinary.

Title: The Believer Who Wills Not To Believe

Date: 2013-09-22T09:14:00.002-04:00

9/22/2013— I have been told that Karl Barth addresses a category of person, somewhere in his writings, with special scorn. This category of person he calls “the believer who wills not to believe.” Barth calls this category of person, an arrogant fool. Naturally, the point of telling me this was to say that I am that person. There is a great deal of truth in this. The category embraces the person who’s very much oriented toward God but who does not feel he can accept God. For me, this means that God, the whole notion of an intentionality toward man in the universe, is inconsistent with everything that science teaches us about the relationship between matter and consciousness. Simply put, there is no consciousness of personality or intentionality without the brain. The brain creates the mind. I don’t mean that mind is nothing more than brain, but the mind is impossible without brain. So the question is not whether there is a telos in the universe, or whether there is intelligibility, but whether there is a kind of willing. Any sort of willing is inconsistent with what science has taught us. Of course for Karl Barth, the whole Bible is the impossible possibility. But Barth was referring to something like the inconceivability that God could love us. That does seem unlikely, but not physically impossible. The “wills not to believe” part of this for me is that I refuse to give up what science has taught. This is odd in a sense because I don’t really know science. I don’t have the math for it. And most of what Christianity teaches is in a sense entirely consistent with science. There is just that notion that God sent his son that does not fit. There is a book by Professor Richard Grigg entitled *God’s after God*, which describes theologies that suggest that God is out of reach in the current age. But in my experience, God is not out of reach at all. I have experienced God’s presence. I reject God cognitively, not at all emotionally. And this is undoubtedly part of what Barth meant by the believer who wills not to believe. But if there were the sort of God that Karl Barth describes, that God would not want me to give up anything of value. And science is of value. So, for now, I’m stuck. But I do think there is a way out.

Title: What Is the Meaning of the Fall/Original Sin?

Date: 2013-09-27T08:48:00.002-04:00

9/27/2013—I believe it is safe to say that what secularism needs is an ontology. By that I mean as full an account as we can manage of the nature of reality including ourselves. What is real and what is not? What is most fully real and what is only a pale imitation of the real? This ontology of secularism might become a theology of secularism depending on how god-like our account of reality turns out to be.

Theology, I have been told, is talk about God. It may turn out that talk about reality is talk about God. One way in to understanding reality is the account of the Fall in Genesis. I doubt that the Fall was ever understood as one literal event of disobedience by our ancestors that curses us in all subsequent generations. Jewish and Christian thinkers have always been more thoughtful than that. I believe the story has always been understood as a myth—that is, as a story told by a culture that expresses the deepest truths about reality, including us. The question is, what does the story in Genesis express? According to liberal theologians and secularists, dumb humanity grows up. Adam and Eve were in a relationship of tutelage and were like children. The Fall was a necessary step in our development. A quite different understanding of the Fall begins at a similar point. The story in Genesis adequately reflects evolutionary theory. At one point our ancestors were in a relationship to reality similar, indeed identical, to the relationship that all other living things have to reality: we simply lived. Over time, the consciousness of animals in our line—primates—began to develop in the direction of a richer self-consciousness. This development included attributes of generosity and compassion but also attributes of cunning and cheating. By the time we get to the fully human we have a self-consciousness that is quite twisted. And that is the truth that is represented by the Genesis story. Instead of claiming proudly that man grows up, we should say regretfully that man becomes man as we are today. Now I know we have our good points. But the real dividing line between liberal theology and Karl Barth and between realism about humanity and a kind of goofy optimism is this: if we take a good look at ourselves, we see a really impressive falling short in every way of the kind of person that we could be. And therefore we see a really impressive falling short in every way of the kind of society that we could build. I have to use myself as an example but I don't want to embarrass myself out here in the public. But let's just say that we are full of absurd envy and resentfulness. We hold onto grudges. We do not put others first. Or, if we do we resent them for it. We are a mess. I would have more respect for atheism if atheists could acknowledge all this and not pretend that we are "good without God." We are not good. And that's not a religious insight. That's just being honest. That is the story of the Fall.

Title: The Sharing Economy

Date: 2013-10-02T11:16:00.000-04:00

10/2/2013—I was talking about the new, sharing economy, and I thought it could be explained and presented through the slogan "ownership is access/access is ownership." The basic approach of this new economic form is an expansion of things like Zipcar so that one might be able to request a rental of something like skis from someone nearby rather purchase them. Or, more intimately, one might pay an unknown neighbor for a room for a few nights. From the point of view of the slogan, the first part – – ownership is access – – looks at this phenomenon from the point of view of the person with legal ownership of the product. This person retains ownership but ownership is now looked at not so much as the right to exclude others but rather the right of access to the product whenever one wishes. So the owner has given up nothing of importance but has of course gained the possibility of additional income, as well as potentially a larger network of social contacts. The second part of the slogan—access is ownership—examines the sharing economy from the point of view of the renter. This person no longer seeks legal ownership of the product in question. Instead, access to the product more or less whenever one wishes satisfies all the needs that legal ownership satisfies, at less cost. There is no question that potentially the sharing economy is economically more efficient because products will be in use much more of the time. It is not, however, necessarily the case that fewer products will be sold through legal ownership. It is just as likely that, for example, having rented a tent for a few days, I might buy one. What is possibly less true of the sharing economy is that it offers anything beyond a certain kind of economic advantage. Some of its proponents envision it as a new social form as well. This may not be the case. After all, Zipcar does not engender any greater form of social cohesion now.

Title: Break from Blogging

Date: 2013-10-05T14:40:00.001-04:00

10/5/2013--due to some surgery, there will be no new blog entries for a few days.

Title: One Cheer for John Boehner

Date: 2013-10-18T04:32:00.002-04:00

10/18/2013—Welcome back from the surgery hiatus. In all the gloating from Democrats and confusion and despair from Republicans, not much has been said about the way that the government shutdown ended. People had been saying for weeks that the Republicans in the House would have to give up. But if they were not giving up. And there was no particular reason to think that they would give up. What seems inevitable now was not inevitable last week. So, what happened? It seems to me that what happened is that John Boehner meant what he said, which was widely reported, some time ago: that he would not permit a default on the national debt. And he did not. Boehner's strategy was apparently give in to his caucus for a period of time so that, when the time came, he could bring a bill to the floor that would reopen the government and pay the debt in violation of the informal agreement in the House that no bills would be brought to the floor unless they had majority support in the Republican caucus. Why does this not make John Boehner something of a hero? Do not imagine that the default, with all its terrible consequences, could never have happened. It could have happened. It did not happen because of John Boehner.

Title: In God We Trust in the Public Schools

Date: 2013-10-26T09:53:00.000-04:00

10/26/2013—Bobby Kerlik wrote a story in the Tribune Review last Thursday about the effort by Representative Rick Saccone to pass a Pennsylvania statute requiring school districts to post the national motto, In God We Trust, in every public school. The constitutional issue is probably a close one, as are all constitutional issues concerning religion in the public square, because of the close division in the United States Supreme Court. The national motto is obviously not unconstitutional in many contexts but may be unconstitutional in public schools. The article illustrates the bizarre and dishonest quality of debate over these issues. Because of the current state of establishment clause jurisprudence, Saccone is forced to claim, dishonestly, that religion has nothing to do with it, as Kerlik quoted him. It's about history. But, of course, an ordinary person quoted in the story, Elizabeth Forward, supported the idea because it would remind people to put our trust in God. And this, probably unconstitutional, motive is undoubtedly in Saccone's mind as well. Today's jurisprudence encourages public officials to lie in this way. This sort of public bad faith is one of the reasons for my proposal in the book, *Church, State, And the Crisis in American Secularism*. I propose there that God language, like that in the national motto, be reinterpreted along the lines of higher law. Thus, In God We Trust, becomes, in addition to its sectarian meaning, an encouragement to trust in reality. Understood in this way, its presence in public schools would be unremarkable.

Title: Hypocrisy over Turkey

Date: 2013-10-31T14:05:00.004-04:00

10/31/2013--There was a story in the Post-Gazette on Sunday, October 27, 2013, about the 90th anniversary celebration of the founding of the modern state of Turkey. There was a great deal of trepidation toward the end of the story about the trend toward Islamification by the religious party currently in power there. This issue has come up before and it is relevant to the consideration of the situation in Egypt as well. There are committed Muslims who are willing to give democracy a chance. But, naturally, when they do achieve power, they seek to enact their favored policies into law. In the case of Islamic parties, those favored policies include things like reduction or elimination of sales of alcohol. It is hard to understand why liberals in America feel free to criticize such governments or even call for their overthrow. After all is not the Democratic route precisely what we all hope Islam will take? It would be understandable if these governments were being criticized for denying rights to women or for canceling elections. Then they would no longer be democratically legitimate governments. But, at least in the case of Turkey, that is not really true. The government has not been welcoming to street protests, but it has not clamped down on free speech. Nor are our future elections in any danger. There is a constitutional right to religious liberty and to be free of religion. But there is no fundamental human right to drink liquor. If the government in Turkey bans alcohol, it may be many things, but it is not antidemocratic.

11/3/2013—On one level, Ronald Dworkin could be accused of taking his ideas from me. He supports religious expression in politics, as I did in 2007 in *American Religious Democracy*. He writes about religious atheists in terms that could easily be mistaken for Hallowed Secularism. And he argues that the core of religion is a commitment to objective values, as I urged in *Church, State, and the Crisis in American Secularism* in 2011. So, in a sense, I agree with much that Dworkin writes. But, in all of his work and especially in his posthumously published last work, *Religion without God*, Dworkin showed that he had no consistent view of all this. The best example of this is that he argues in his book for objective values, but also takes Hume's position that an ought cannot be derived from an is. These two positions simply do not fit together. This is why Hume was not himself a moral realist, like Dworkin. For, if you take the position that the statement, the universe is sublime, states a kind of fact, as real as stones or pain, as Dworkin puts it, then you have dissolved the distinction between values and facts. To put it most clearly, if the statement, it is morally right to support the poor and not allow them to starve, is objectively true, or at least potentially objectively true, then it follows that I should support the poor and not allow them to starve. Hume could argue that the existence of God does not mean that one must obey or worship God because he denied that the statement one ought to obey or worship God could be objectively true. Thus, it follows that a statement at the intersection of religion and science, such as the universe is not a collection of accidental forces and objects, is for Dworkin objectively true. But this clearly means, contrary to what he argues in his book, that there is no great dividing line between science and religion. And at one point Dworkin even admits that both science and religion are based on faith. The reason for all these confusions is a simple one. Dworkin was in large part always a political and legal opportunist. He took his positions, whether pro-choice or in favor of the separation of church and state, first and figured out justifications later. This could lead to confusion and awkward arguments. In order to justify pre-existing commitments on the establishment clause and the free exercise clause, Dworkin had to argue as he did.

Title: Legislative Prayer

Date: 2013-11-08T06:08:00.001-05:00

11/8/2013— Reading about the oral arguments in the legislative prayer case, *Town of Greece v. Galloway*, I am reminded of my lecture last Tuesday on Heidegger's essay entitled, *The word of Nietzsche: The Death of God*. Heidegger wrote this essay, which was based on a 1949 lecture, to put the death of God in a larger context. According to Heidegger, Nietzsche was announcing not just the death of a God who could influence the world and who therefore would have to be taken seriously before human beings could act to master the world, but was announcing the death of the suprasensory world itself: the death of the traditional values of truth, beauty and the good. All of these had been understood as restraints on what human beings could do in the world. Now, instead, humans are dominated by the will to power and understand themselves and everything else as objects to be used according to a revalued sense of value. We see the validation of Nietzsche's insights, as interpreted through Heidegger, in many areas, including the decline of church attendance and the growth of secularism in America. But, far more faithful to Nietzsche is the unrestrained industrialism that is willing to risk changing the climate of earth. There we see will to power. How does all this relate to legislative prayer? For some people, it is undoubtedly the case that what they want is an endorsement by the government of Christianity. And it is also true that some people look to prayer before legislative sessions as a way of reminding people about the existence of God. These motives are of course unconstitutional even if the Supreme Court has sometimes hesitated to say so. But, according to Nietzsche, the invocation of God is more than just a reminder of Christian truth. It is also always a reaction against the triumph of the will to power. It is always also an invocation of the reality of the good, the true and the beautiful. It is always also a reminder that there are in fact limits on what human beings can do in the world without disastrous results. We should all of us, including nonbelievers, be very happy for such reminders. From this point of view, the controversy over legislative prayer is really a misunderstanding of the nature of religion and of ontology. Yes, of course, a city council should not simply endorse Christianity indirectly through legislative prayers. What that city council should do is open up the category of prayer to its genuinely appropriate breadth. Prayer is about human arrogance. And all invocations of objective truth to which human beings are subject should be welcome as a reminder of appropriate human limit.

Title: Huffington Post Blog Entry on Legislative Prayer

Date: 2013-11-13T12:04:00.000-05:00

11/13/2013--Read the entry here.

11/16/2013—When I say I don't believe in God, what do I think I mean? Well, I guess I mean that science gives the ground rules for what is possible. And science tells us that there can be no intentionality without matter at its base. That is the story of the human brain, after all. So, there could not be a God of the sort the Bible indicates—who is spirit and has plans and intentions for humans and all creation. But it has been pointed out to me that I am identifying the mythic elements of the Bible with the Bible story. That is, the writers of the Old Testament may have had in mind of being, a supreme being, who is all-powerful and who acts in the world. But this is not always the case in the Bible. In the New Testament, this kind of God is mostly absent. Now, it is true, that in the New Testament there is something like an afterlife and of course resurrection, which might be held to raise the same kind of problem. But resurrection was a strange and mysterious concept even to the writers of the New Testament. Anyway, what if we could imagine an entirely different kind of starting point. The universe was created. The Big Bang tells us that. And that is what the Bible asserts. Similarly, there is intelligibility in the universe. That is why mathematics can sometimes predict what later experiments will actually show about the way the universe works. That is what was meant when it was said that mathematics shows the mind of God. How there can be such intelligibility remains a total mystery. But the Bible says that the universe is intelligible because it was created by an intelligence. We have no evidence to the contrary. When asked for his name in Exodus, God answers to Moses with a mysterious formula involving the word *is*. This is sometimes translated as *I am what I am* but that is just an approximation. It has been suggested to me, and was claimed by Karl Barth at least at one point, that God is *isness* itself. A formula like that sounds very much like Heidegger's being. I guess the point of this is that the statement, *I don't believe in God*, is probably a great deal more complicated than I have heretofore thought. And indeed the idea that the Bible can be easily dismissed may be an example of dismissing a shell and not sampling what is inside it.

Title: God is not a Supernatural Thing

Date: 2013-11-20T17:02:00.002-05:00

11/20/2013—Believe it or not, the title above is a quote from *The Church Dogmatics*, by Karl Barth. The quote was read to me, but I will at some point retrieve the citation. When a statement like that is made by a liberal theologian, I react with some scorn. From a source like that, this statement would amount to a rejection of all miracles and all mystery in the Bible. But Barth is considered neo-Orthodox. He certainly is a critic of certain aspects of liberal theology and he did not reject miracles. So, what could this statement mean? For one thing, Barth was convinced that the easy atheism of his day and ours did not know God and so could not possibly reject Him. Second, Barth was clear that God does not exist like some kind of being. How God is, is not at all easy to say. All statements about God are inadequate. Third, and most important, Barth asserts that we meet God in the world, not in some supernatural status. Specifically, now, we meet God in Jesus Christ. Jesus is not some supernatural thing. So, neither is God.

Title: The Theology of the Disappearance of Thanksgiving

Date: 2013-11-28T11:13:00.003-05:00

11/28/2013—The disappearance of Thanksgiving is sad, but hardly surprising. For years, Christmas music on the radio crept up earlier and earlier, so as to eclipse Thanksgiving. For years, stores have put up Christmas decorations earlier and earlier, so as to crowd out any reference to Thanksgiving. For years, Black Friday sales have edged closer to midnight and even began in the late evening of Thanksgiving. This year, the invasion of Thanksgiving has become quite obvious. Large retailers are now open all day for special sales. There is no sense that the day of Thanksgiving should be set aside for family gathering or that the employees of retail establishments might want the day off. This is not surprising because this the way that capitalism works. There is no money to be made, after all, from Thanksgiving. So Thanksgiving had to give way to the shopping orgy of Christmas. This blog entry is not another criticism of capitalism. Instead, the question I would like to raise is, where is the voice of the church? After all, when there are commercial threats to Christian holidays, there are Christian voices to object. The religious right has been strangely silent about this latest affront to Thanksgiving even though the forces are the same that marginalized Easter and commercialized Christmas. I believe the failure of the church to criticize this latest form of capitalist invasion of family life has to do with the fact that Thanksgiving is not specifically a Christian holiday. That is an unfortunate shortsightedness. I notice in other areas as well that, increasingly, religious believers treat themselves as an interest group. God is not the representative of an interest group. Christian voices should be raised to object when one of the few noncommercial celebrations of American life is downsized. As to what could be done, solutions are by no means not obvious. We just are prey for capitalism. But, at the very least, government could require doubletime pay for nonunionized workers on Thanksgiving. That at least would be a start. Happy Thanksgiving.

Title: God Again, Or, Am I an Atheist?

Date: 2013-12-04T04:43:00.001-05:00

12/4/2013—The law professor world is buzzing over the Hobby Lobby cases and the meaning of the Religious Freedom Restoration Act—RFRA. These conversations have an odd quality. Everybody is a kibitzer. Everybody is talking about prior cases. As if that matters at all to the Supreme Court. (Cases never have mattered to the Justices).

I'll give you my prediction. Every RFRA claim will win. Even for-profit corporations. The reason for this is that the conservative Justices warned against broad religious exemption rights in *Smith*. Congress did not listen. So, the statute will be interpreted broadly, as the broad protection it was intended to be. (This is not really true, since the statute was to restore a right that was actually pretty feeble). I can hear a majority on the Supreme Court saying, since this is a statute, Congress can amend or repeal it if we are wrong in our interpretation. Justice Scalia will love the carnage that will result from not listening to his warning.

And it will be carnage for a time. All sorts of weird religious claims for exemption will come forward, further convincing the non-religious that religion is the enemy. Repealing RFRA will become a new cultural flash-point.

In the midst of all this, I have been seriously challenged once again over my self-identification as an atheist. I don't like the term, any more than did John Dewey, but I have accepted it. Karl Barth has said a number of things that intrigue me, however, and make me hesitate over my non-belief.

For one thing, Barth says that God does not require the slightest surrender of reason and knowledge. He says that theology is an equal science that will not be pushed around by the human sciences, but what they have genuinely found, they have found and that cannot be disputed in the name of a preconception of God.

Second, we humans really don't know anything about God. All our talk, which is the Christian's obligation, is still just stammering. So, if I find Jesus to be unique but I don't understand what it means to say he is God, Barth would say he has the same problem (on a higher level, let's say).

Third, there is a connection between God and being as understood by Heidegger. And I don't have a problem with being as real and effective.

Finally, there is creativity. According to Barth, one mark of God is the realized possibility not present within human reality. If materialism were the whole story—a flat stodgy materialism—nothing new could ever happen. But new possibilities emerge all the time. This is so both in nature and in history. Jesus himself and his movement are one such new possibility. So is the connectivity of the Internet. So is the big bang. So is life. So materialism is not the whole story.

I left Judaism because for me it was no longer the truth. This had to do with a lot of things, including a certain understanding of God that seems to me an idol. A nationalist idol at that. That decision still seems right. But as for God, maybe that last word has not yet been spoken.

Title: President Obama in the Sweet Spot

Date: 2013-12-08T07:02:00.003-05:00

12/8/2013—After months and weeks considering whether the Obama administration was a failed presidency, it is a real pleasure to consider the Obama administration today. In one area after another, the President looks pretty good.

Obviously, with the gradual fixing of the Obamacare rollout, people are now considering, as Paul Krugman kept saying they would, just what healthcare reform will mean to them. The point has always been that now, the first time, poor people and people with pre-existing medical conditions will be able to get health insurance. This is a great thing and it is the most progressive thing to help people who need help that this country has done in a long time. Those of us who thought President Obama was right to concentrate on healthcare even when the economy was collapsing can now take some satisfaction. And President Obama deserves a great deal of credit.

But there is more. The economic reports on Friday suggest an economy finally, finally getting on track. Here, there is some luck involved. Maybe the combination forced on the nation by divided government proved to be a good thing. Maybe the forced cuts and declining deficit have been good for the economy. Here, maybe Paul Krugman was wrong. I don't know and I'm not sure anyone knows. And it has taken far too long. And there is still too much unemployment. Nevertheless, in looking around the world, the American economy is looking pretty good.

Then there is inequality. President Obama is addressing the need to raise the minimum wage, the next best and most important thing that can be done to help poor people and to reduce inequality in incomes. Perhaps this will not happen soon, but it will happen. And it is something that the entire Democratic Party can eagerly support.

In foreign and military affairs, President Obama has wound down two wars. And, again partly through luck, President Obama has not begun any wars. Given recent American history, this is an accomplishment. And you can be sure it would not have been true with a Republican president or perhaps even with a different Democrat.

The agreement with Iran is positively historic. The criticism of this interim agreement is incomprehensible apart from an atavistic desire for war. Again here, President Obama deserves a great deal of credit for standing up to the pro-Israel lobby. Ironically, this agreement will prove to benefit Israel more than any other country.

As for Palestinian Israeli negotiations, I suppose they will go nowhere as they never have gone anywhere. Again, however, the perceived shift in United States policy away from Israel and Saudi Arabia, which columnists in the Jewish press have written about, may persuade Israel that its time is running out. President Obama and his political coalition are less dependent on traditional Jewish sources than have been previous Democrats. The groups that are coming to power in America, including Hispanics and a newly assertive African-American vote, are not as pro-Israel as was the prior political constellation. So, it may be in the future that Israel will not be able to assume unconditional American support. This does not mean that America will cease to be pro-Israel but it might mean a new definition of what it means to be pro-Israel. In any event, there may be more pressure on Israel to make a deal today than before. Certainly President Obama has done nothing here to lessen the chances for peace.

Finally, in this short list, there is the relationship between America and China. In the long run, this is the most important foreign policy issue in the world. Here, the Obama administration has done nothing wrong. We have stood by Japan without alienating China. In a time of limited resources for America, this may be the best we can do. The longer the relationship between America and China remains peaceful, the more likely it is that the relationship will become permanently peaceful. In terms of world history, there is no inevitability of military competition between a land power in Asia and an ocean power in North America. The Obama administration has rightly insisted on freedom of the air in its most recent confrontation with China. But it would be foolish to go to war over uninhabited rocks to which China has as good a claim as does Japan. Again here, America seems to be in good hands with President Obama.

Title: Self Actualization Is Sin

Date: 2013-12-15T06:14:00.002-05:00

12/15/2013—I was introduced to a fragment of Christian theology, based I believe on the thought of Eberhard Jungel, that was surprising. According to this thought, the drive for self-actualization, which we hear in the language of striving for excellence, is itself sin because it leads to the nothingness of the relationless life. Instead, God comes to us in the interruption of all of our plans for our lives. God comes to us in the person of the other as the one we did not expect and do not wish to hear about and now must serve. What was strange about this is that we all teach our children something quite different. My children were certainly taught to seek excellence, in sports for example. We all think it is good that we have plans and hopes and dreams for ourselves. All this, says Jungel, is self absorption and lead us away from life. Life is interruption. This way of thinking has obvious implications for marriage and family life. Marriage can be thought of as a way of fulfilling one's own needs. Or, marriage can be thought of as service to the needs of one's beloved. Children are the ultimate interruption. Their interruption, of course, turns out to be the call of real-life over against our delusions. Jungel's thought illustrates how Christianity is the best antidote for excessive capitalism. Capitalism worships excellence and self-actualization. Capitalism wants us to ignore the needs of the unexpected and unwelcome other. Christianity stands against this. It might be asked, what else in the world stands against this?

Title: Donald Rumsfeld and the Banality of Evil

Date: 2013-12-21T18:11:00.001-05:00

12/21/2013—Happy Winter solstice. Back in August, I posted a blog about the new Hannah Arendt movie. I was considering in the blog the meaning of Arendt's phrase, the banality of evil, as applied to Adolph Eichmann. Meanwhile, Mark Lilla has written in the New York Review of Books about the Arendt movie and about the possible meanings of Arendt's phrase "banality of evil." Lilla suggests that if Arendt had known about the committed nature of Eichmann's anti-Semitism, she might have hesitated to use the phrase in regard to him. But I have a new candidate for the banality of evil: Donald Rumsfeld. Rumsfeld is the subject of a new movie by Errol Morris and has his own memoirs and is also the subject of the book by Bradley Graham. All of these things are brought together very well in a review by Mark Danner in the New York Review of Books. Rumsfeld comes across as a peculiar kind of fatalist. For example, in the movie, Morris confronts Rumsfeld with an authoritative report that establishes Rumsfeld's partial responsibility for the abusive behavior in questioning at Abu Ghraib. Rumsfeld concedes the point. But he says nothing more about it. Morris then asks, "Are you saying stuff just happens?" Rumsfeld's response is telling: "well, we know that in every war there are things that evolve that hadn't been planned for or fully anticipated, and that things occur which shouldn't occur." So, nothing is anybody's fault. Things happen. Morris then asks the natural follow up question: "wouldn't it have been better not to go there at all?" And here again Rumsfeld responds with fatalism: "Well, I guess time will tell." Danner claims that this is reminiscent of Nixon's passive statement, "mistakes were made." But truly Rumsfeld is far less willing to acknowledge responsibility than was Nixon. Nixon at least used the word, mistakes. A real person, whoever that might be, makes a mistake and we might find out who that was. But, if things just happen, there is no one to identify with what happened. This odd fatalism is quite different from the reaction of the Administration right after 9/11. A little fatalism might have been helpful at that point. Maybe Rumsfeld could've said then, well you know, things happen, bad things, when you're running an empire. Instead of fatalism, we heard the language of absolute evil. That language went too far in the opposite direction. There was no sense of America's participation in a world that could seem so unjust to so many people. At every point, Rumsfeld is silent about his own policies. At every point he professes surprise at what was done in his name. At every point he seems to have been the last to know what was going on. Even if all this was feigned, it gave an excellent imitation of what Arendt thought she heard from Adolf Eichmann.

Title: The Future of the Secular Outlook

Date: 2013-12-25T11:30:00.003-05:00

12/25/2013—For Christmas, the New York Times columnist Ross Douthat has written a remarkably apt op-ed, which appeared in the NY Times on Sunday, and today in the Pittsburgh Post-Gazette. In *Ideas from a Manger*, Douthat imagines the manger scene as a complete worldview. The manger encapsulates both the vertical relationship of God and man and the horizontal sense that the transcendent could be represented in the lowly manger and baby. This latter sense was revolutionary in world history and represents the key Christian message—Christ emptied himself and became a servant: kenosis. This sense of the meaning of the manger is widespread today but actually encompasses three distinct modes of understanding. In the biblical world picture, the story is still of God revealing himself in these particular people at one particular time. In contrast, in the spiritual world picture, the divine is manifest everywhere, at least potentially, as symbolized in the manger story. But in the secular world picture, the vertical dimension is lost and only the horizontal message of human solidarity remains. Then Douthat goes on to make a startling point—though all three world pictures have their problems, the secular "suffers from a deeper intellectual incoherence than either of its rivals, because its cosmology does not harmonize at all with its moral picture." Douthat means here that the cosmology of material accident does not mesh with the strong secular commitment to human rights and equality. I am most interested in Douthat's possible future. He predicts a change of some kind in the secular view—it will be replaced by "something new." He leaves out the something I envision—a new sense of materially based teleology. Even matter yearns for the good.

Title: The Moral Universe

Date: 2013-12-30T18:23:00.001-05:00

12/30/2013—Today, in the Pittsburgh Post-Gazette, columnist David Brooks noted essays from 2013 that won Sidney Awards. One of these was a mini-debate between Steven Pinker and Leon Wieseltier about the role of science in modern thought. Here is what Brooks wrote about Pinker's presentation: "Pinker argues that science has demonstrated that 'the belief systems of all the world's traditional religions and cultures — their theories of the origins of life, humans and societies — are factually mistaken.' Instead, science has given us a different value system: 'The facts of science, by exposing the absence of purpose in the laws governing the universe, force us to take responsibility for the welfare of ourselves, our species and our planet. For the same reason, they undercut any moral or political system based on mystical forces.' Pinker is making a number of assumptions that seem unwarranted, such as science exposing the absence of purpose in the laws governing the universe. What "fact" would show such a thing? Here is an example of science suggesting a universe full of purpose, or what could be considered purpose. I referred in my Church, State book to evidence that babies have a kind of moral life. Apparently, more evidence of this is now available, in a new book by Yale psychologist Paul Bloom, entitled *Just Babies: the origin of good and evil*. Bloom argues that the evidence shows that babies very early and across cultures prefer nice puppets and people. In one experiment, 1-year olds punished a puppet who refused to share. Infants as young as three months old preferred looking at helpers rather than hinderers. Maybe proof of innate morality is too strong a word to use. But results like this are very far from Pinker's purposeless universe. Instead, this is a reality that selects for the good.



POSTS:
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Title: Happy New Year From the Train

Date: 2014-01-02T09:56:00.002-05:00

1/2/2014—On the Amtrak route, the Pennsylvanian, on the way to New York City and the AALS Annual Convention from Pittsburgh. The train is now going around the famous horseshoe curve that was built to allow train travel across the Allegheny Mountain summit in Pennsylvania. The curve was built by hand and allows trains to go up and down at a 1-2% grade rather than the unsustainable 5% that previously prevented direct train access between Philadelphia and Pittsburgh. The horseshoe curve helped to inaugurate the golden age of train travel.

Title: Restoring the Lost Constitution

Date: 2014-01-05T05:21:00.000-05:00

1/5/2013—Greetings from the Annual Convention of the American Association of Law Schools. In the next few days, I will have a blog entry concerning the contraception mandate RFRA litigation program at the Law and Religion Section. For now I will just note that you would not know that the RFRA litigation is regarded as an illegitimate partisan attack on policy by a large number of Americans and if RFRA really means what the program suggested, government in America is essentially at an end.

Here I want to honor a presentation made by Georgetown Law Professor Randy Barnett. Randy was a large part of the intellectual firepower behind the Commerce challenge to the Affordable Care Act that succeeded before the US Supreme Court. He was part of a panel addressing the general question whether the Constitution has succeeded in achieving the goals of its Preamble.

This question led to a rorschach test like response. The question became one of loyalty to the Constitution itself. Sanford Levinson presented one contemporary liberal response—the Constitution is illegitimate because largely undemocratic and this lack of democratic rule prevents the people from legitimately ruling due to minority gridlock in Washington.

Randy presented a classically liberal response—hence conservative in our current terms. Majoritarian rule is not the proper norm by which to judge the Constitution because a large part of the purpose of the Constitution is to restrain majorities. By this measure, the Constitution has done a fairly good job until recently. This argument is made in his book, *Restoring the Lost Constitution*.

Randy returned specifically to the Declaration of Independence to characterize the legitimate purpose of government—that is, the justification of the use of coercive power against unconsenting adults. Government is instituted to achieve the inherent right to individual self-government—the original pursuit of happiness. Government achieves its proper purpose by maximizing individual freedom, though it must do so by restraining illegitimate uses of power by foreign enemies and would-be distorters of the economic market.

There are two important assumptions in Randy's view. First, rights are real. This is an ontology that is no longer self-evident in the framers' sense. Second, the use of private property is presumed to be legitimate. But in an interconnected world in which driving my car melts the icecaps and thereby raises the sea level and steals land from coastal dwellers, this assumption is no longer unproblematic either. Basically, the private power of capitalism is not a political issue for Randy.

The great thing about Randy's presentation is that he is grateful for the Constitution while most legal academics are not. CS Lewis used to say that it was unbecoming for Christian clerics to maintain their posts when they could no longer endorse the basic tenets of Christianity. I had something of the same feeling listening to Randy. If we teaches of the Constitution cannot fundamentally affirm the constitutional project, why are we teaching the Constitution?

1/7/2014—I am studying Eberhard Busch's book, *The Great Passion*, which introduces the theology of Karl Barth. I have paraphrased in the title of this blog entry a line from that book. In Barth's view, both theism and atheism mistake the nature of God. For what Barth calls theists, who are monotheists who share this erroneous view of God, and for self-proclaimed atheists, God is an absolute being who lives in and for himself, independent of humans. Theists believe such a being exists and atheists deny that such a being exists. Barth agrees with the atheists that such a being does not exist, but in Barth's case, because this is not the nature of God. God is for and with humans. The image of God is Jesus Christ. The image of God separately existing somewhere apart from us is false, as far as Christianity is concerned. The theist and atheist both project this false view of God out of pride because both would like to be this kind of being. Both identify with this kind of God. The theist identifies with this kind of God in the theist's religious life. But it is really just a projection, as Feuerbach wrote, of himself. The atheist denies the separate God exists but would affirm that this is an ideal existence and wants to be himself absolute and independent. For Barth, this is a second and related mistake. For just as God is for us and with us and not an absolute being existing alone, so man is not a being absolute and alone. Man's authentic way to be is relational, as this is God's way to be. Reality is relational. Nothing exists apart. The error that Barth sees is perfectly stated in Descartes' "I think, therefore I am." This is a projection of a human being alone and independent. There is not even this kind of thinking. I am always thinking of another. But what a difference if the formulation had been, I think of you and therefore I am. It is typical of Barth to see the believer and the nonbeliever in the same boat. This is the kind of thinking we must learn to help overcome our divisions.

Title: Conservative Hypocrisy on Free Speech

Date: 2014-01-10T10:42:00.001-05:00

1/10/2014—I was embarrassed by the suspension of Phil Robertson by A&E over his public comments that homosexuality is a sin. You might as well say that all religious traditionalists are outside the pale. The Bible implies in several places that homosexuality is wrong. That view is mistaken and the verses can be interpreted differently, but religious believers are sort of stuck with the text. So, I thought the suspension was overly sensitive. It was not, however, a matter of free speech per se. The Constitution binds government, not a private entity like A&E. But as a fan of free expression, I still did not like this censorship. Meanwhile, my conservative friends had a field day over the censorship of the left. And so did the media in general. So, why not much mention of the more grievous example of censorship that has occurred with regard to Dick Metcalf, former columnist of Guns & Ammo Magazine, who was fired after writing a column supporting compromise over gun control? Unlike Phil Robertson, who was reinstated, there is zero tolerance on the right even for questioning the ethos of free guns for all. Of course this episode is also not a matter of free speech per se. Guns & Ammo, like A&E, is a private entity. But it is disheartening all the same. How is discussion of issues to go forward in an environment like this? And that is the real point. It's fun to point out the hypocrisy of one's political opponents. But the real problem is the desire to limit expression to what one already agrees with. That is the habit we all have to break.

Title: The God Belief of Martin Gardner

Date: 2014-01-12T08:46:00.001-05:00

1/12/2014—Teller—odd name, no?—wrote a review last week in the New York Times of Martin Gardner's autobiography, *Undiluted Hocus-Pocus*. The autobiography is a bit strange, since the book is new, yet Gardner died in 2010 at the age of 95. Yet, it is quite evidently all him. Gardner was best known, I guess, for his monthly column, *Mathematical Games*, which ran in *Scientific American* for 25 years. He was a pro-science skeptic, but was a warm human being, alive to all of life's joys. Very unlike skeptics of today. Teller writes that the final part of the book "may make science buffs uneasy" because Gardner counted himself a believer in God, though he admitted that "atheists have all the best arguments. There are no proofs of God or of an afterlife. Indeed, all experience suggests that there is no God." One wonders, then in what this faith consisted, since Gardner does not seem to be reenacting an unshakeable childhood faith, like so many of us—myself included sometimes. Teller recounts the following story, which I guess must be from the book: "Carl Sagan once asked Gardner if he believed in God simply because it made him happier. Gardner said yes. 'My faith rests entirely on desire. However, the happiness it brings is not like the momentary glow that follows a second martini. It's a lasting escape from the despair that follows a stabbing realization that you and everyone else are soon to vanish utterly from the universe.'" Here, the old Jew in me is puzzled. Abraham was not given this kind of reassurance and yet he was satisfied that the Jewish people—his descendants—would become a blessing to all people. Abraham was not in despair over his end and the finitude of human life. But it is not enough for Gardner that humanity itself is not soon to disappear from the universe. So I don't understand Gardner's despair. But I also don't understand Gardner's reassurance. Karl Barth has told us that God does not require the renunciation of any human faculty. Science, in other words, cannot conflict with faith. Usually, the conflicts are only apparent. The forces behind evolution, for example, are not evident and do not exclude some kind of teleology that inheres in matter. The claim that evolution disproves belief in God is not itself a scientific claim. But neuroscience does show that whatever it is that makes me, me, has to do with my physical brain. There is no Bruce Ledewitz without it—no human spirit without matter. Once I die, that physical brain dies with me. Therefore, so it seems, I as I cannot go on. Given that, even if I believe in God, I cannot believe in the kind of continuity that is reassuring to Gardner without holding that there is some reality in which science just doesn't count. Why would I find that reassuring? Looking at things that way seems to make science a kind of joke and God a kind of prankster.

Title: Barth, the Jews and the Crucifixion

Date: 2014-01-17T02:01:00.000-05:00

1/17/2014—The theologian Karl Barth is rightly regarded as a hero by many Jews. It was Barth who stood by the Jews in Germany and opposed any accommodation to Hitler by the churches of Germany. Barth was the first Christian theologian to oppose the old supersessionism, by which the Old Testament covenant of God with Israel was seen as replaced by a new covenant in Jesus Christ. No, said Barth, the covenant with Jesus the Jew is the same covenant. The relationship of God with the Jewish people has not been displaced. The heroism of Barth in these insidencies, proclaimed at the literal risk of his life in the 1930's, is authentic. But I wonder if Jews really understand the implications of Barth's thought. In my continuing study of Barth, I have now gotten to the material concerning these matters. Yes, the New Testament is a Jewish book, but part of its theme is the rejection of Jesus by non-Christian Israel, which is the majority of the Jewish people. That rejection is a continuation of the Old Testament, which, as the prophets noted, was a history of Israel's rejection—aside from a saving remnant—of the covenant with God. The rejection of Jesus culminates in the crucifixion of Jesus by the Jews (with plenty of help from Rome). You see, in Barth's understanding, human beings are always rejecting God. Israel's rejection of Jesus opened the way for the covenant to be extended in a definitive way to all of humanity, which it had been the charge of Israel to do all along, but which Israel has refused to do theretofore. Barth, who is a friend to the Jews, can and does say things that most Jewish people would not want to hear. He remains a hero but his is a message hard to listen to.

Title: Is Evil Real?

Date: 2014-01-21T06:38:00.002-05:00

1/21/2014—Walter Kaiser has reviewed *Twelfth Night* at the Belasco Theatre in the most recent edition of the *New York Review of Books*. *Twelfth Night* is alternating with *Richard III*. I was privileged to see *Richard III* there a few weeks ago. Kaiser calls Mark Rylance “one of the greatest Olivias of all time.” I am sorry to have missed that. But, for me, Rylance’s performance as the evil Richard was much more important. Rylance plays *Richard III* for laughs. He shows just how funny Richard’s very real evil is. The production is not at all light hearted about the evil itself—not ironic in any way. It is Richard himself whose grasping, unlimited ambition causes the audience many real laughs. This interpretation works so well that it seems the only way to understand the play. And that raises a metaphysical question—is evil funny inherently? Of course evil is not funny to its victims at the time. But is there inevitably something funny about it? This question can be restated—how real is evil? In the Christian view of reality, evil has already been defeated ultimately. The death and resurrection of Jesus Christ show and guarantee this. Thus, for all the pain it can cause, evil is fighting a losing fight. Already a spent buffoon so to speak. That is Richard in this production. No one imagines for a moment that Richard can represent any kind of future. Now, what about our secular view of evil? If the universe has no ultimate structure—no purpose, or goal or hierarchy—if it is just one thing after another, an endless series of contingent accidents, why should evil carry any less weight than good? On this view, evil is plenty real. Is this true? Shakespeare, for one, may not have agreed.

Title: How the Christian Story Works

Date: 2014-01-26T07:00:00.001-05:00

1/26/2014—I apologize to my readers for becoming fixated on Christianity, but that can happen when you read Karl Barth. When I say that Christianity works, I mean that believers have access to good and true aspects of reality that nonbelievers have to work to gain any understanding of.

Here is an example. In a recent edition of the New York Review of Books—that source again—Wyatt Mason [reviews](#) Tenth of December by George Saunders. This longish short story, which is the name of the collection, concerns a mortally ill man who plans to commit suicide rather than go through any more pain and humiliation. Eventually he finds himself rescued by others, though he will successfully die, and comes to appreciate the life he has in a new way:

What a thing! To go from dying in your underwear in the snow to this!... It was something. Every second was something. He hadn't died in his shorts by a pond in the snow. The kid wasn't dead. He'd killed no one. Ha! Somehow he'd got it all back. Everything was good now, everything was—

The woman reached down, touched his scar.

Oh, wow, ouch, she said. You didn't do that out there, did you?

At this he remembered that the brown spot was as much in his head as ever.

Oh, Lord, there was still all that to go through.

Did he still want it? Did he still want to live?

Yes, yes, oh, God, yes, please.

But Eber will not live, neither happily ever et cetera, nor much longer. So he wonders:

If some guy, at the end, fell apart, and said or did bad things, or had to be helped, helped to quite a considerable extent? So what? What of it?... Why should the shit not run down his legs?

Why should those he loved not lift and bend and feed and wipe him, when he would gladly do the same for them? He'd been afraid to be lessened by the lifting and bending and feeding and wiping, and was still afraid of that, and yet, at the same time, now saw that there could still be many—many drops of goodness, is how it came to him—many drops of happy—of good fellowship—ahead, and those drops of fellowship were not—had never been—his to withhold. Withhold.

That last mistake is his brain misfiring due to disease and the suicide.

Christianity teaches exactly this—that we can love ourselves even in our weakness and humiliation and thus allow others to help us without the false pride that robs us of the possibility of human solidarity. But this noble perspective is a result of understanding that God himself was willing to undergo weakness and humiliation for us. God loves us as we are. We don't have to pretend to be more than we are.

This liberating perspective is about the best thing I know. Secularists like me are filled with all kinds of false pride—that we follow reason, that we lack prejudice etc. You just cannot build a community out of such lies. We are lying to ourselves about ourselves. And the result is that we would rather commit suicide than expose ourselves as we truly are.

The question is, is it possible to acknowledge that the Christian perspective is better and truer and to learn from it? Once the story is learned, can it be practiced without its premise? Or, without its premise quite as Christianity understands it? Jesus was willing to die on the cross for us. That much seems historically true. Is that enough?

Title: God and Truth

Date: 2014-01-29T22:22:00.002-05:00

1/29/2014—Today I began to read a section concerning Karl Barth's understanding of truth. For Barth, the person who knows God can never be satisfied with anything less than the full truth. Nothing can be left out or suppressed. Because God is the truth. This means that the Christian is in principle very different from the understanding of the religious believer that secularists often describe. The Christian recoils from any restriction on human understanding. God made the human mind free. No discoveries of science can threaten God's reality. That is not because of some conception of separate realms for religion and science. It is because God is creator of all. The Christian, even more than the secularist, proclaims enlightenment to be the proper end and goal of humanity. But the Christian is dedicated to the truth, not to relative truths in which each person has his or her own. That latter conception ultimately denies truth altogether and it is ironic that this is where the Enlightenment has led this culture. The Christian dedication to truth, moreover, cannot lead to coercion or tyranny. God did not force faith, so the Christian obviously may not do so. It's frustrating to read Barth. One wants to ask, what happened to Christianity?

Title: The California Drought

Date: 2014-02-02T06:54:00.002-05:00

2/2/2014—News today that the California State Water Project will stop any allotment of water to the 25 million people and 1 million acres of farmland that it usually serves. The drought California is experiencing was called in the New York Times today, the worst in 500 years. Authorities were quick to note that this does not mean Californians will go thirsty. It means that local water must be found to make up the difference at a time that many parts of the State are experiencing drought—though some parts are not. California has been experiencing below normal rain for three years. And a look at the U.S. Drought Monitor for today shows that most of America west of the Mississippi river is experiencing abnormally dry weather as well. This is also the new normal. A story on NPR this week reported that though Las Vegas has cut water consumption by 1/3 in the past 5 years, authorities there are warning of new cuts to come. There are policy alternatives to help deal with these dry conditions. Water in Las Vegas, for example, is still among the cheapest in the United States. Rising water prices will husband this resource more intelligently. But, in the end, if the conditions we see today are not drought, but the beginning of a new climate in the western United States, the beginning of expanding desertification, then there is no combination of policies that will cope with the new reality. If that is the case, then too many people live in the west and too much food is grown there to be sustained. Obviously, I believe that these new conditions are part of a long range drying caused by climate warming—whatever temporary conditions are also contributing right now. But, aside from causation, the drought in the west shows how absurd economic thinking is that suggests we can adapt to global warming. People will adapt, of course, but the pain and dislocation will be enormous. Ask the people in the west today whether they would be willing to spend some money on sustainable energy sources if it meant the end of the drought? They sure would. Prevention was always cheaper and better than coping with disaster.

Title: Religion is a Lie

Date: 2014-02-06T18:39:00.003-05:00

2/6/2014—Shockingly, this statement is not authored by a Chris Hitchens or any of the other New Atheists. This statement was made, on many occasions in fact, either expressly or by implication, by Karl Barth, the greatest theologian of the 20th Century. In the Teaching Company's series, *Skeptics and Believers*, Grinnell College Professor Tyler Roberts says that Barth is as great a skeptic of religion as any of the masters of suspicion: Nietzsche, Freud or Marx. But what could such skepticism mean for Barth, who was so earnest in his belief in God? For Barth, religion is the effort by human beings to grasp the divine. But humans lack all capacity for interaction with the divine. God is utterly beyond human beings. So, any statement humans utter about God in their religions is really a statement about themselves, as Feuerbach knew. Does that mean that the Christian story is false? No, of course not. But neither the revelation of God in Jesus Christ, nor the act of God in any other historical act in any other culture, is anything human beings have done. God alone reconciles with godless humans and their godless religions. Well, then, what is the difference? Don't our religious teachings then turn out to be true after all? For Barth, the answer is no. What humans learn from God's revelation is that God is true and we humans live in a lie. We lie to ourselves about ourselves and everything else. In seeking autonomy from God, we end up with the most bitter enslavement to outside powers and our own whims. Barth is often misunderstood, even by his translators. At one point in the *Church Dogmatics*, Barth is translated as saying, there is no secular realm in which Christ is absent or which is free from his control. But upon reading the German, it was clear that Barth never wrote of Christ's "control." Barth wrote instead of Christ's disposition—even in secular life, we have the example of Jesus before us. For Barth, God is never God over humanity, but God with humanity.

Title: The Death of Meaning

Date: 2014-02-09T06:23:00.003-05:00

2/9/2014—I've been thinking of titling a new book "Secular Law, the Death of Meaning and the Christian Story." The book will chronicle my unyielding commitment to secular law, along with my growing concern with the foundations of secular civilization. I call that concern the death of meaning. The title also points to my romance with Christianity as propounded by Karl Barth, despite my resistance to, or reinterpretation of, core Christian motifs, such as incarnation and resurrection.

I have found little resonance among nonreligious young people—I just mean younger than 60, which is of course not necessarily young at all—to my fear of the death of meaning. They are busy living, thank you very much, and do not need God to find meaning in life or to be good people.

I know that is the case at the moment. But the reason for that seems to me to be that religion, and specifically the Judeo-Christian tradition of monotheism, form the framework of American life. Will that still be true a century from now? Will that still be true given the remorseless attacks on religious frameworks?

The issue is a kind of materialist naturalism. Ironically in the name of science that distrusts the senses, nonreligious thinkers insist that what we can sense is all there is in reality. This viewpoint not only removes a God who does tricks with the laws of nature, a conclusion that I also endorse, it also rules out at the start anything like meaning. The universe must be an accident and our lives a meaningless blip because there is no norm or telos or end or goal that the universe is striving for. We still have a feeling that self-conscious life has a significance that mere physical existence does not, but we no longer have an ontology in which that judgment is coherent.

Here are two recent examples of what I mean. In a recent issue of the magazine *Mental Floss*, the physicist Neil deGrasse Tyson, the astrophysicist director of the Hayden Planetarium, explains why he is creating a new *Cosmos* series, after the one by Carl Sagan. He says of the new series, "Its real contribution is that it shows how and why science matters." (page 46).

Do you think Carl Sagan would have thought that way? Sagan wanted people to see how beautiful the universe is, how worthy of awe. Tyson probably feels the same way, but the culture is no longer capable of such a reaction. Tyson is fighting against the death of meaning. It used to be obvious that learning the truth of reality inherently matters.

Someone who feels the death of meaning, though his frame is quite different from mine, is Stephen Harrod Buhner in his book, "The Lost Language of Plants." (2002). The book was recommended to me and I have not read much of it yet. But here is how Buhner introduces his understanding of how lost we have become from viewing the universe as a thing without consciousness: "And in the stillness I ...saw the wound laid down within all of us. The damage to our interior world from the belief that we somehow crash-landed or inexplicably emerged on a ball of rock hurtling around the sun, the only intelligent inhabitants of Earth. The wound that comes from believing we are alone amid dead uncaring nature. And then I took breath and began to share stories of a time when the world was young, when everyone knew that plants were intelligent and could speak to human beings." (page 22).

The Christian story by the way is like that too. It is a story of reality alive and in relationship with us. Buhner would not use terms like God and religion. His is an Earth-based spirituality. That may seem like a big difference to others, but not to me. Anyway, the death of meaning is Buhner's wound. The naturalist account is Buhner's "inexplicably emerged."

Title: The UN Committee on the Rights of the Child

Date: 2014-02-11T05:42:00.000-05:00

2/11/2014—Mark Movsesian, professor of law at St. John's University, has a good column on the Center for Law and Religion Forum. Mark is critiquing last week's report by the UN Committee on the Rights of the Child on the response of the Vatican to the pedophilia crisis in the Church. The critique centers around calls by the Committee for the Vatican to change its position on abortion, contraception and gay rights in order better to protect children. These matters have no obvious connection whatever to the treaty language—the Convention on the Rights of the Child—nor to the specific wrongdoing of pedophile priests. I think Mark is right that this aspect of the report amounted to an attack on the Roman Catholic religion by an aggressively secular human rights group. But I am more interested in another aspect of the report—the criticism of the Vatican for its handling of the pedophilia itself: “the Holy See has not acknowledged the extent of the crimes committed, has not taken the necessary measures to address cases of child sexual abuse and to protect children, and has adopted policies and practices which have led to the continuation of the abuse by and the impunity of the perpetrators.” Now, as far as I know, no one is claiming that sexual abuse of children is going on today, except in some isolated act by a criminal priest, much as it might go on in isolated cases in many other institutions—Penn State for example. No one seems to be claiming that today the Church is just moving priests suspected of abuse around to other posts. The criticisms seem to center around three issues: the failure of the Vatican to take responsibility for the prior actions of priests worldwide, the failure to turn all suspected priests over to authorities for prosecution and the failure of the Church to open up its records. What seems to me to be at issue here is legal responsibility, which could include financial responsibility and a kind of jurisdictional disagreement. I believe the Vatican rejects direct responsibility so it cannot be sued civilly by victims. Maybe sad, but just the sort of thing large institutions worry about. As for transparency, the Church maintains a kind of jurisdictional apartness and always has. The Church is reluctant to set a precedent in which government authorities, rather than the Church, will decide who should be prosecuted. Unless this stance is leading to protection of current child abuse, this is a separation that Americans should welcome. Americans have always looked to strong civil society as a necessary foundation for a free society. A certain amount of separation of church and state is to be welcomed as part of that foundation.

Title: Not Joining a Union/Not Marrying

Date: 2014-02-16T05:15:00.001-05:00

2/16/2014—In July, 2013, researchers reported that the US marriage rate had continued its long-term slide. Among all American women over 15, 47% were married, down from a high of 65% in 1950. Part of this change is women waiting longer to marry and part from a decline in remarriage among women who are divorced. But, of course, the main reason is just that people no longer feel the need to marry. "Marriage is no longer compulsory," study researcher Susan Brown, co-director of the National Center for Family and Marriage Research (NCFMR) at Bowling Green State University, said in a statement. "It's just one of an array of options. Increasingly, many couples choose to cohabit and still others prefer to remain single." [This is from the website, livescience]. Conservatives hate this trend while liberals by and large don't care. I am reminded on this trend because of the news that workers at the VW plant in Chattanooga rejected joining the United Auto Workers union 712 to 626. A majority vote among the 1500 workers was needed. Liberals hate the result while conservatives are delighted. Why did the UAW lose when the company itself appeared to want the union to win in order to set up worker councils? The union claimed that the result was caused by interference by Republican government officials. A story in the Wall Street Journal quoted workers saying that unionization would divide the plant's cohesion and that politically conservative workers did not want to join a liberal organization like the UAW. But I believe that deeper anti-union feelings are at least part of the story. And those deeper feelings, versus the strong union movement in other developed countries, like Germany, have to do with the same individualism that affects marriage. America is a nation of individuals who make our own way. We do not merge our separate identities into a larger whole. We do not practice solidarity. This is the ethos of capitalism. And the ethos of individual choice. But it is also the ethos of not marrying, not joining a union and not joining a church. All of these rates are related and they are all going down. I am inclined to say to America, to all of us, good luck with that.

2/20/2014— Kierkegaard referred to the story of the binding of Isaac in the Bible as the teleological suspension of the ethical. By this, Kierkegaard was pointing to the terrible command of God to Abraham to sacrifice his son Isaac. The story of the binding of Isaac always presents a dilemma for the ethical religious believer. Although the story turns out “happily,” that is not much comfort in terms of what the religious believer should do when confronted with a command of God that conflicts with accepted ethical principles. In reading about the grace of God in Karl Barth’s theology today, my friend and colleague suggested that the grace of God through Jesus Christ is a suspension of the ethical in what one might call the opposite direction. That is, through Jesus Christ all humanity is saved even though we are all sinners and do not “deserve” to be saved. The suspension of the ethical seems a meek term for a command to kill one’s son or a grace that includes the undeserving. A better term might be a “norm free space.” In dealing with the acts of God in relationship with human beings, one is dealing with a norm free space. This concept of a norm free space is consistent with a number of parables in the gospel, for example that of the prodigal son, in which the undeserving receive more than they should. A norm free space also describes how Jesus deals with the law in a very loose and easy way, much to the chagrin of the Pharisees. It also describes Jesus’ command to judge not. All this is well and good as a matter of Christian theology, but is reality really this way? There is a structured, but norm free, realm—mathematics. Mathematics has been suggested as the underlying structure of the universe. That is why mathematical equation sometimes predict nature’s actual behavior. Mathematics has been known as a way to look into the mind of God. In terms of the norm free space, mathematics may be a way to look into the heart of God as well.

Title: How Does the Secular World Do without God?

Date: 2014-02-25T13:00:00.002-05:00

2/25/2014—Here is a quote from Metropolitan Hilarion Alfeyev, head of the Department of external relations of the Russian Orthodox Church, Moscow Patriarchate, from a February 21, 2014 address in London: “A world without God, without absolute moral values rooted in divine revelation, the revocable he turns into the realm of the rule of slavery and lawlessness.” The question is, is there anything the secular world can appeal to in order to ground acivilization? I have before me an article from the New York Times, also on February 21, 2014, about several Alcoholics Anonymous chapters that do without the usual religion of the Alcoholics Anonymous program. For example, instead of reciting the Lord’s Prayer at the end of the session, these chapters say together, live and let live. I have nothing against live and let live. But Alcoholics Anonymous is not even an example of live and let live. It is, instead, an example of care about how others live. It is a place of intent solidarity. It is even a place of judging how others live. It is clearly better to live without alcoholism. Alcoholics Anonymous is not an organization that is neutral or relative. This comes back to the question of how to live in a world without God? Maybe that is the wrong way to think about the issue. Let us say that I do not believe something like a God conceptualized as the Bible does can exist. Do I necessarily than reject absolute moral values rooted in divine revelation? You might say I necessarily reject divine revelation, but that might only mean that absolute values unfold without regard to my opinion or without regard to the actions of humans. It may be, in Hegelian fashion, that absolute truth comes to know itself. Or, in Heideggerian fashion that being discloses itself. In any event, divine revelation need not imply a person-like supernatural being. So, maybe Alfeyev is right but maybe secular civilization has a response.

Title: The Attack on Douglas Laycock

Date: 2014-03-01T11:50:00.000-05:00

3/1/2014—I was sad to see the vicious attacks on Doug Laycock, Law Professor at Virginia and leader of a group of law professors that have been trying to get religious exemptions in gay marriage legislation out of sympathy for both gay marriage and religious liberty. The attacks, which taint Doug as anti-gay rights arose out of a letter he wrote to Governor Brewer of Arizona, which others also signed (I did not), that pointed out that the proposed Arizona law would not have immunized discrimination against gay people but would have given religious believers a potential defense in private anti-discrimination lawsuits. A judge would have to determine whether the exemption defense would be successful. Doug was arguing that, ironically, a religious exemption in a gay marriage bill, which have not been controversial, automatically allows discrimination while the RFRA type amendment in Arizona would likely have rejected most religious exemption claims. Even though I disagree in part with the analysis that the Arizona law was not that bad, the point in the letter that the religious defense would not automatically win, was correct. And the suggestions on the web that Doug and some other signers are not really pro-gay marriage is absolutely wrong with regard to people who have been signing the pro-gay marriage letters. The reason I strongly opposed the Arizona bill was the same reason I now have qualms about generalized religious exemptions—this not your father's RFRA [Religious Freedom Restoration Act]. I believe the Supreme Court is going to uphold religious exemption claims under RFRA. The Court signaled this by ruling in favor of the religious claimants in *Gonzales v O Centro Espirita Beneficente Uniao do Vegetal* in 2006, holding that the government had failed to justify its ban on a sacramental tea containing a Schedule I substance. This case was litigated under RFRA and this claim succeeded, whereas prior to *Unemployment Division v Smith* (1990), it likely would have failed. I predict a majority on the Supreme Court will say, look, we warned you that heightened scrutiny for religious exemption claims would lead to anarchy. Now you'll see were right. But just because I disagreed with the legal analysis in the letter is no reason to mischaracterize both the argument and motivation of honorable persons.

3/4/2014—Ross Douthat wrote a column Sunday in the New York Times ("The Terms of Our Surrender") ostensibly throwing in the towel on religious exemption for gay marriage in light of the Arizona experience. But the column was mean spirited, which Douthat usually is not, and it was not accurate in its description of the situation, which again is not like Douthat. For example, Douthat says that gay marriage is coming because of the Supreme Court. But, as he knows, the real change has been a political avalanche. Yesterday, the Quinnipiac poll reported that Pennsylvanians support gay marriage by 57% to 37%--and we have Republicans dominating all three branches of State government. Douthat's real concern is what happens to a religious culture that still clings to the heterosexual/religious/Christian view of marriage and sex. Douthat's hopes it will be live and let live, but he no longer expects that. Now he thinks that traditional institutions, like Catholic adoption agencies, will be treated like racists were earlier. But here is his key observation about a law like the proposed Arizona religious exemption: "such bills have been seen, in the past, as a way for religious conservatives to negotiate surrender — to accept same-sex marriage's inevitability while carving out protections for dissent. But now, apparently, the official line is that you bigots don't get to negotiate anymore." But, if you are wise, you don't negotiate surrender when you have nothing left to offer. Then, why exactly, should the other side give you anything? You negotiate when you still can resist. Not one traditional voice that I know of have offered to support gay marriage in return for a religious exemption when it counted. Not one. Douthat could do that now. In Pennsylvania, for example, there is no strong support for gay marriage among two Republican majority chambers. So, this is the time to negotiate. If cultural conservatives wait until gay marriage has majority support, why should they expect terms? Douthat wants a situation in which supporters of religious exemptions hold out until they lose on gay marriage and then demand a religious exemption. The flaw in Arizona was not that the bill granted a religious exemption, but that it did not legalize gay marriage. I assure the reader that no one would have objected to that fair deal. I am calling for just that deal in Pennsylvania on Monday in the Philadelphia Enquirer. If Douthat wants negotiation, let's go.

Title: The Hypocrisy of Senator Toomey, the Cowardice of Senator Casey

Date: 2014-03-09T08:02:00.002-04:00

3/9/2014—On Wednesday, the US Senate voted 54-47 to reject Debo Adebile as head of the Civil Rights Division of the Department of Justice. The ostensible reason was Adebile's representation of convicted killer Mumia Abu-Jamal. This is how Senator Toomey put it in an email he sent to me and many other Pennsylvania citizens: "As head of the NAACP's Legal Defense Fund, Debo Adebile helped fan racial tensions by joining the offensive public crusade to lionize Mumia Abu-Jamal, the unrepentant killer of Philadelphia police officer Danny Faulkner." As I tried to write to Toomey in response—his system for response does not work—all criminal defendants are entitled to representation, not just repentant ones. And, basically, Adebile's representation was vindicated by the result in the case. The death penalty was overturned in the courts. The one playing the race card here is Toomey. Conservatives like Toomey like to claim they follow the framers of the Constitution and history generally. But, Toomey must have been absent when his class in school was taught about the representation by John Adams in 1770 of British soldiers accused of killing American protestors. At the end of his life, Adams was said to have called this unpopular representation his finest moment. But at least Toomey is willing to acknowledge his actions. I heard nothing from Senator Casey about his vote against Adebile. John Micek in the Partiot-News speculated that Casey may have been under pressure from the Philadelphia Police Union. But whether this is so or not, Casey's vote was a disservice to his constituents and his political party. I doubt the vote was cast on the merits.

Title: Re-Post of Gay Marriage op-ed

Date: 2014-03-11T05:16:00.002-04:00

3/11/2014--Here is the text of my op-ed, "Gay Marriage With an Exemption," which appeared yesterday in the Philadelphia Inquirer.

Pa. gay marriage with an exemption

Posted: Monday, March 10, 2014, 1:08 AM

By Bruce Ledewitz

It is difficult to propose a religious exemption for gay-marriage legislation in Pennsylvania in the shadow of Arizona's proposed law, which seemed to allow businesses to refuse services to gay couples. Fortunately, Arizona Gov. Jan Brewer vetoed the bill, which was not limited to weddings and did not legalize gay marriage. It simply introduced in the market the potential for the kind of general discrimination against gay couples that the Catholic Church has consistently opposed. The law might even have allowed businesses to fire, or refuse to hire, gay employees - or, indeed, members of other faiths.

But I hope that the Arizona experience has not tainted the concept of a religious exemption in exchange for a gay-marriage bill. I propose that Pennsylvania practice mutual compassion and strive for common ground by including a broad religious exemption, including businesses, within a law legalizing gay marriage, while limiting the exemption to services at the wedding ceremony itself. This would be democratic horse-trading in the best tradition, in which both sides give up something in order to get something more important in return.

By this proposal, supporters of gay marriage would win. Right now, there is little support in the Pennsylvania General Assembly to legalize gay marriage. Nor is there any indication that the state courts will do so. People talk about the prospects for gay marriage at the U.S. Supreme Court, but I am confident that Justice Anthony Kennedy will not vote to strike down state gay-marriage bans, and there is no majority on the court to do that without him. On the other hand, a proposed broad religious exemption in a gay-marriage bill would radically change the politics of the issue in Pennsylvania.

Supporters of religious liberty would also win under this proposal. One day, gay marriage will be the law in Pennsylvania. A recent survey found 57 percent of Pennsylvanians already support gay marriage, while support among the young was overwhelming. And business interests will eventually insist on legalization as they lose employees to gay-marriage states like New York and New Jersey. If supporters of religious liberty wait until there is majority support for gay marriage in the legislature to press for a religious exemption, they will get little. The U.S. Supreme Court has already held that religious exemptions are not usually required by the Constitution.

If we act now by legalizing gay marriage with a strong religious exemption, Pennsylvania can play an important role in bringing our divided nation together. Yes, there will be the odd caterer who does not want to serve at a gay wedding. But this reluctance will fade over time. And, anyway, who wants a resistant service provider at a wedding?

And, yes, there will then be gay marriage. But opponents should recognize that this is a coming reality and make the best of it. We don't have to agree on everything in order to live together in mutual respect.

I worry that today's struggle over religious exemptions, whether in gay-marriage legislation or in the Affordable Care Act, will obscure the beneficial role that conscience has played in American history, both for religious believers and for nonbelievers. Conscientious objection to the Vietnam War protected not just believers, but also those unaffiliated with a religion. And I hope we can all agree that vegans in prisons should not be forced to eat meat, whatever their religion.

It would be a sad irony if the long-delayed acceptance of justice for gay couples were the occasion of an invasion of conscience for religious believers. It would be far better to recognize the legitimate needs of all. We can do this by legalizing gay marriage and legislating an exemption for religious conscience at the same time. But this opportunity will not last long. Pennsylvania's General Assembly must act now.

Read more at

http://www.philly.com/philly/news/local/20140310_Pa__gay_marriage_with_an_exemption.html#TiM4U0p7fOptEDH7.99

Title: How Much Damage Has Nihilism Done?

Date: 2014-03-14T06:16:00.001-04:00

3/14/2014—I have been writing and thinking about nihilism for a few years now. I have a visceral reaction to statements about “the West,” or about how human rights or science are artificial constructions of some societies, and so forth. I even hate it when gay marriage is talked about in terms of tolerance for a lifestyle of equal dignity. No, it is a matter of justice for gay people. Their love is not a choice but a right. (Yes, I know—this from a man who just wrote in favor of a religious exemption that allows discrimination against that right. Well, politics is compromise). I long for the real. Not certainty in the sense of unassailable argument—an argument that, as Hilary Putnam once said, would convince Hitler that he was a bad man—but the faith that our commitments at least tend toward right and wrong. Science does this, even though paradigms shift, as Kuhn pointed out. The new paradigm is better able to explain the data, or it is more appealing on some other ground that we hope is truer to reality. No scientist talks today about the superiority of one race over another. That is not just political correctness, which of course it is in part and good for that, but because the whole concept of one race in competition with another race turned out to be nonsense within a human species in which everyone could mate with everyone else. But maybe the habits of mind I don’t like are exaggerations on my part and are not that widespread or are not that harmful. I have to consider that possibility. So, it is strangely thrilling to see an example of the harm of nihilism. Here is Zadie Smith, the novelist, in the most recent NY Review of Books, explaining in an imaginary future conversation with her granddaughter about why humans were so slow to do anything about global warming: “So I might say to her, look: the thing you have to appreciate is that we’d just been through a century of relativism and deconstruction, in which we were informed that most of our fondest-held principles were either uncertain or simple wishful thinking, and in many areas of our lives we had already been asked to accept that nothing is essential and everything changes—and this had taken the fight out of us somewhat.” *Elegy for a Country’s Seasons*. So, now our job is to reconnect to the real, not reconstruct some new scaffolding. People are trying to do that. There were two advertisements along these lines in the very same issue of the NYRB. In the arts, John Dadosky has written *The Eclipse and Recovery of Beauty*, based on the thinking of the theologian Bernard Lonergan. In science, most recently, Mark Johnson has written about the scientific basis of morality in cognitive science in *Morality for Humans*. Green shoots as they say on the eve of spring in the Northern Hemisphere.

Title: The New Cosmos Series Plays Out the Old Culture Wars

Date: 2014-03-16T07:19:00.002-04:00

3/16/2014—Tonight is the second episode of the new Cosmos series. I loved the old series, by Carl Sagan, because of its simplicity and sense of adventure. The new series is pompous and overblown—like movies, the special effects are so prevalent, they are not special. I learned a few things—like about rogue planets—but the sense of light fun along with serious engagement was missing. Nothing illustrated the grim agenda of the series better than the emphasis on the treatment by the Catholic Church of Giordano Bruno. This story was the longest single segment in the first episode. Bruno was tried for heresy and was burned at the stake in 1600. While the story is completely true, what exactly was it doing in the series? Although Bruno engaged in cosmological speculations—he proposed that the sun was just another star, for example—my understanding (from Wikipedia, but I have heard this before) is “that Bruno's ideas about the universe played a small role in his trial.” That is easy to believe since Bruno denied the divinity of Christ, the virginity of Mary and the doctrine of Transubstantiation—all matters that might get you burned at the stake in 1600 quite apart from any beliefs about the sun. Presenting the evil looking Cardinals suppressing free thought in Bruno's case is not about the history of science. It is a reflexive anti-religion theme that plays a role in current attitudes about religious institutions and teaches little if anything about scientific speculation. There is no question that the Catholic Church did suppress some scientific thought—see Galileo—but it is also the case that a number of the early scientists were themselves clerics—see Copernicus—or pious believers—see Newton. It is also true that the scientific endeavor that we know today arose only in Christendom and may actually owe something to Christianity—the belief that the Creator is benign and orderly and that the Creation may teach something about God's nature—the new learning was originally understood as a branch of “natural theology” after all. Tonight's episode apparently treats of evolutionary theory. I am prepared for more anti-religious propaganda. We shall see.

Title: Death

Date: 2014-03-22T21:55:00.000-04:00

3/22/2014—Two friends of ours are dying. One of them is staying at home, having spent a day and a half in hospice. The other is looking for hospice in a nursing type facility. One is around 58, while the other is over 80. One is religious and the other really is not. Death is the great frontier for secularism. I have never heard the well-known atheist writers, like Dawkins, address it. For the believer, there are two aspects of comfort with regard to death. In one view, the believer dies but goes to heaven largely to exist in a form similar to this life—he'll be playing golf. I find this sort of thing really silly. Even Jesus made fun of it when the Pharisees asked who the wife would be the husband of, if she married brothers, who then died. (This was a normal procedure to keep land within the tribe.) The other view is that of the hymn, rest to the good and faithful servant after a life well lived. In this view, we know nothing about the other side of life and it does not matter. Serving our intended purpose is all we need to worry about. Now, this view might be available to the non-religiously affiliated as well. It would require a sense of purpose in existence, which organized atheism has tended to scorn. Much more on this topic in days to come.

Title: What's Going to Happen in the Hobby Lobby Case?

Date: 2014-03-25T06:08:00.002-04:00

3/25/2014—I don't look at Supreme Court cases the way others do. Decisions have nothing whatever to do with precedent. Arguments and briefs follow the law and then the Justices change the law. That is not a criticism. It may be what the Supreme Court is for. In Hobby Lobby, a for-profit, closely held business is trying to use the Religious Freedom Restoration Act (RFRA) to avoid the contraception mandate in the Affordable Care Act. I am sure Hobby Lobby will win. I say this for the simplest of reasons. First, the Justices already have said that corporations are like people. That is easy to hold in this case because the owners are so closely identified with their businesses. Hobby Lobby is not a publically owned shareholder company. Second, RFRA is a remedial law. That kind of law is usually read broadly. The legislature is trying to relieve religious people of a burden. Any error should be made on the side of the claimant. In theory, RFRA is just a statute that can be amended if Congress decides that the relief went too far. As to the catastrophe that might ensue if for profit businesses get to claim religious exemptions and the burden this may put on employees, I can see Justice Scalia writing the following: "In *Employment Division v. Smith*, this Court warned that to provide general religious exemption for neutral, generally applicable laws would threaten 'chaos.' In passing RFRA, Congress rejected the Court's view. It is not now the Court's role to restrict the result Congress sought to accomplish in the name of that same fear of chaos."

Title: Nihilism at the Heart of Secularism

Date: 2014-03-28T09:06:00.000-04:00

3/28/2014—In order to understand law, or art or architecture or science, or any of our highest values, you have to come to terms with Nietzsche. According to a perceptive review article by Tamsin Shaw in the October 24, 2013 issue of the New York Review of Books, entitled “Nietzsche, ‘the lightning fire,’ ” Nietzsche found that all of Western culture, all that had made him feel that life is meaningful, was a series of tricks. And he identifies some of these tricks, which he finds apparent in the work of Arthur Schopenhauer and Richard Wagner, that produce in the viewer a feeling of an uncanny and elevated state, despite their underlying hollowness. So, for example, a sense of profundity, of emotional depth, is often created by mixing apparently contrary emotional states.

Shaw is reviewing the book, *The Flame of Eternity: An Interpretation of Nietzsche’s Thought*, by Krzysztof Michalski. I am not relying on the rest of the review or on that book. For Shaw, there is a great deal more to Nietzsche than this.

What I wish to show here is how this one fragmentary insight of Nietzsche has infected all of American thought, actually all of Western thought. I find the direct heir of Nietzsche and the trick in episode 3 of the series, *Cosmos*.

At the beginning of episode 3, Neil deGrasse Tyson asserts that before the rise of science, humans associated the arrival of comets with momentous events, usually bad ones. The comet, in other words, was a sign from some god. As Tyson puts it, “They took it personally. Can we blame them?”

As you can see from the word blame, Tyson feels that ancient humans were mistaken in all this. He calls it a phenomenon of “false pattern recognition.” And there is a reason for this mistake. Tyson says of humans, “We hunger for significance. For signs that our personal existence is of special meaning to the universe. To that end, we are all too eager to deceive ourselves and others. To discern a sacred image in a grilled cheese sandwich.”

Now, I doubt that Tyson would have the fortitude to consistently apply this insight, at least in public. If the last sentence had read, “to discern a sacred image in the cry of a child,” Tyson would probably have a moment’s pause in his breezy nihilism. If I asked Tyson whether Martin Luther King’s statement that the moral arc of the universe is long but it bends toward justice, is also an instance of false pattern recognition, he would hesitate. And if I pointed out that this error means that nothing humans do, including the achievements of science, has any meaning whatsoever, and then asked him why he is bothering with the series, *Cosmos*, he would have no answer.

But the main point here is that the line from Shaw’s trick to Tyson’s false pattern recognition is a direct one. All of our sense of the meaningfulness of existence can be seen as a result of error.

This is the current direction of our secular civilization. And we cannot cure it, lament it or deal with it, until we first admit it.

Title: Now Get Rid of the \$2600 Limit

Date: 2014-04-03T06:19:00.002-04:00

4/3/2014—News came yesterday of the decision of the Supreme Court to overturn aggregate limits on campaign contributions. The typical responses were that conservatives hailed the change and liberals bemoaned the effect of money on politics. These overall limits on money contributed to federal candidates in a 2-year cycle do not affect the \$2600 limit to an individual candidate in one election cycle. So, it would already have been complicated to actually reach the aggregate limit and few people did so. What is missed in the reaction is that we already have unlimited spending on campaigns. That spending comes from independent groups, usually super PAC's, that are free to raise money and spend it as long as they do not coordinate their spending with any candidate's campaign. Thus, we now have the worst of all worlds—unlimited, irresponsible and invisible spending by rich people infecting our politics, creating obligations that candidates understand and that the voters do not understand. The simple answer is counterintuitive—get rid of the \$2600 limit, which now actually only affects regular people. In one act, independent spending would begin to ebb. The voters would see which candidates received money from people whose politics they do not like. If independent spending went on, voters could ask why a candidate could not control his or her own supporters. Politics would become transparent, which is even more important than controlling how much money is spent.

Title: The Death of a Grandmother

Date: 2014-04-06T08:03:00.004-04:00

4/6/2014—A friend of mine died this week. Far too young. She will be missed by her husband of many years and by friends and family—and by my children. She will be missed most of all by her grandson, a 4-year-old boy. He has no conception of death. Yesterday, he was wondering, wherever Grammy went, why she did not take her glasses. I have heard a number of people wondering how to talk to him about death. This is not a religious family, which makes things harder but more honest. So there is nothing about heaven and that sort of thing. But it is so brutal to say simply that she is gone. Nor is it really true. Grammy is not gone, any more than my mother and father are gone. In some ways, I feel closer to my mother and father since their deaths. Their presence now is more comforting to me than when they were alive. We have an symbol, strangely appealing, for this experience. It is supernatural, to be sure, and so not strictly accurate, whatever that might mean. But it does capture something, something real and true. So, if I had a chance to talk to this grandson—and I probably will not, since I am not that close to him—I think I would say the following. Grammy is now an angel, looking out for you. Now, you can talk to her anytime at all. And if you listen very quietly, you will hear her voice. Forever.

Title: More Secular Yearning for God

Date: 2014-04-11T08:13:00.002-04:00

4/11/2014—This past Sunday Barbara Ehrenreich published a column in the New York Times entitled *A Rationalist's Mystical Moment*. (You can read it [here](#)) When she was 17, Ehrenreich had a mystical experience of seeing the world suddenly flame into life. As an atheist—she has described herself as a fourth-generation atheist—Ehrenreich suppressed this memory. She thought it might be evidence of a mental breakdown. Eventually, she says, it was her scientific training that nudged her to consider the possibility that this kind of mystical experience, which the literature tells us is very common in human history, might be evidence of some kind of actual encounter, as religious believers have always insisted. But contact with what? Here Ehrenreich refers to quantum mechanics and “the realization that even the most austere vacuum is a happening place, bursting with possibility and giving birth to bits of something, even if they are only fleeting particles of matter and antimatter.” Maybe we are not alone in the universe. There may be other forms of consciousness, “which may be beings of some kind, ordinarily invisible to us in our instruments. Or it could be that the universe is itself pulsing with the kind of life, and capable of bursting into something that looks to us momentarily like the flame.” Ehrenreich wants to be very clear that this is not anything supernatural and that there is no evidence for a God or gods, least of all caring ones. Now, other than reassuring herself and her friends that she is not becoming religious, what can such a reservation mean? What in the world does Ehrenreich imagine that religious believers, especially including mystics, have meant all along if not beings ordinarily invisible to us or that the universe itself is alive? Let me put it this way. Ehrenreich is betrayed by the term supernatural. Why don't we posit that there is no such thing as anything supernatural. Everything that is mysterious and everything that is beyond our explanation and everything that is beyond our language is nevertheless natural, including the Big Bang, including time and including God. Maybe when we use the word God, we mean in part that the universe itself is alive and capable of bursting into something that looks like flame.

Title: Ross Douthat's Magical Thinking

Date: 2014-04-14T17:27:00.000-04:00

4/14/2014--I tried to get the New York Times to publish the following letter to the editor, without success. To the Editor: In his column on healthcare debate last Sunday ("Health Care Without End"), Ross Douthat appeared to suggest that one driver of healthcare debate is the growing desire to postpone death. Douthat appeared to mean a kind of unnatural postponement of death because his point related to growing consumption of healthcare resources--a kind of life at all costs approach, even when there is no reasonable chance of cure. Then Douthat linked this greater investment in post-poning death to growing secularization in the culture. If I am not mistaken, the indirect suggestion was that religious believers, because they have an expectation of an afterlife, or some kind of meaningful resolution to life, can approach death in a calmer, more relaxed way than can we secularists, who, because we have nothing to hope for, must cling to life at all costs, thus screwing up healthcare policy. I wish Douthat were right about this. That would mean that religion is still healthy in this country.

Unfortunately, in my experience, just as there are no atheists in foxholes, there are no believers in cancer wards. Most people deny the inevitable and their earstwhile religion has nothing to do with it. Bruce Ledewitz

***** I have seen a lot of this recently. Persons who claim to be religious believers, regular churchgoers and pillars of the believing community, face death without any obvious religious commitment. I am not suggesting that the only possible religious response to death is that we will all meet again in heaven. It would be just as much a religious response to hold that life is good and the universe is well-ordered and that my demise is part of that good plan. What I don't expect to see is the very clinging to life at all costs that Douthat presumably had in mind. That attitude, increasingly common, is rather juvenile. The philosopher Martin Heidegger once described a similar attitude as an unwillingness to get off the stage.

Title: Cowardice and Hypocrisy at Brandeis

Date: 2014-04-17T20:08:00.000-04:00

4/17/2014—I have been reading Abby Schachter's column in the Jewish Chronicle detailing the story behind Brandeis' decision to rescind the invitation to Hirsi Ali to speak at the 2014 graduation ceremony on the ground of hate speech. An unsigned statement by Brandeis contained the following: "We cannot overlook that certain of her past statements are inconsistent with Brandeis University's core values." What statements? The Jewish Chronicle set forth the kind of statement that Brandeis is condemning—"I left the world of faith, of genital mutilation and forced marriage for the world of reason and emancipation." Well, that statement perfectly describes what actually happened to her under the sway of Islam. How can speaking the truth be considered any form of hate speech? Obviously, Brandeis just does not have the stomach for free speech. This is the censorship of Salman Rushdie over again. That said, I am no admirer of Hirsi Ali. She denigrates all religion, including, but not only, Islam. In my view she is genuinely intolerant. But, while that might have been grounds for not inviting her, it was pressure from the Council on American-Islamic Relations, not principle, that disinvited her. It is also true that the episode is being used by critics of Islam (and Iran) when they themselves have tried to silence University speakers critical of Israel. Schachter is a good example of this double speak. If Hirsi had said, as she no doubt believes, that Judaism is almost as bad as Islam and the world should not tolerate a religious state like Israel, I doubt the demands of free speech would have been felt so keenly. But, that does not matter. The critics are not the ones who caved in to censorship and pressure. That was Brandeis. And it is a great shame and a greater danger.

4/20/2014—Of course if he is risen, it is a joyous day for all humanity, whether we know it or not. Sometime this week, I'll return to Bishop Spong on the resurrection. But back to Particle Fever, the documentary telling the story of the discovery—verification—of the Higgs Boson, which is the particle that explains "why some fundamental particles have mass when the symmetries controlling their interactions should require them to be massless, and why the weak force has a much shorter range than the electromagnetic force." (I don't actually know what that means). The story is told from the perspectives of several of the physicists involved—what is at stake, what it means to know and discover, how their lives have been affected by this 20-year wait. It is a compelling story telling apart from the science. Two insights for nonscientists. First, several times the theme of science and art is invoked, and by several physicists. Yes, the search is to know, but it is also a search for beauty. This kind of realm is often unknown among hard-edged anti-religion atheists. These men and women are not merely empiricists. They are well aware of an invisible world. They regard the mathematical structure of reality as a kind of miracle. And they have their own kind of faith. Secularism risks descending into its own kind of know-nothingness in which it rejects in principle much of what makes a human life worth living. Second, while the cancellation of the American collider project in 1993 did not harm humanity's search for truth—although it slowed it down—it can serve as a symbol for the breakdown of America's public life. As I remember, that cancellation was a part of the anti-Clinton movement in the Republican Party, aided and abetted by anti-technology leftists. But that may not be entirely true, as I now look at some of the material from the time. It may just be that America is tired, and was tired then. The irony is that, given the constant state of war we have been in since 2001, the collider would have been chicken feed. The money was not spent elsewhere, on science or anything else. The cancellation may have marginally contributed to the Clinton budget surplus, but it accomplished nothing else.

Title: The Progressive/Religious Alliance

Date: 2014-04-25T05:22:00.004-04:00

4/25/2014—Back on April 9, 2014, the Post-Gazette carried a story about Reverend Jack O'Malley receiving the Pennsylvania AFL-CIO Citizen of the Year Award. The award "cited his half-century of activism on behalf of unions and laborers". Here are some of the highlights of the story. "His work has ranged from hosting California farm workers, who were seeking nationwide support for better working conditions in the 1960s and 1970s, to efforts over the decades on behalf of steel and other blue-collar workers. More recently, Father O'Malley was arrested for trespassing in February along with other clergy in a protest outside UPMC offices, calling for better pay and conditions for the health care giant's workers. Father O'Malley's aim is 'to put the gospel into action,' he said. 'People are working two jobs without health benefits, and they can't even see their children" because they often get home after the children have gone to bed.'" O'Malley is a Catholic Priest here on the Northside. Undoubtedly he opposes abortion and gay marriage. But he clearly wants to talk about and put his efforts into matters of social and economic justice. For that matter, Pope Francis wants to talk about and emphasize matters of social and economic justice. The Catholic Church is ready to be an ally on behalf of the bottom 20%, or even the bottom 99%. Secularists have got to stop throwing away the opportunity for collaborative work out of an anti-religion bias. The AFL-CIO has done so.

Title: The Fight Over the Personhood of Animals.

Date: 2014-04-29T06:19:00.002-04:00

4/29/2014—If you want to see law at least a little as it used to be, look no further than Steven M. Wise, whose litigation on behalf of the legal rights of certain animals was featured in the New York Times on Sunday. (Story here) What makes the story particularly significant jurisprudentially is that Wise is using not the Constitution, but the common law method of writs and incremental steps to recognize these legal rights. And it seems that the foundation of these steps is “evolving public morality” based on new scientific learning about the mental life and capacities of at least some animals. What is not clear to me is the basis of this movement. Wise’s intellectual hero seems to be Oliver Wendell Holmes and his realist jurisprudence. Wise criticizes teleology because it led to a human dominated universe, as opposed to the utilitarian traditions of the ancient world. (There is much to Wise’s thinking I have to learn about). On the other hand, Wise criticizes legal positivism, which he describes as the idea that rights come from the State. Universal human rights are grounded in the way human beings are—they are in that sense derived not created. I guess my question is whether moral evolution is getting somewhere. Some Darwinian theorists deny that evolution can properly be thought of as having a goal or hierarchy. Not everything moves toward greater consciousness. It depends on the needs of an environmental niche. But moral evolution does sound like it has a direction, a telos. Recognizing the legal rights of animals would then be a part of the kind of teleological thinking Wise criticizes. We are getting closer to the good. Or, does Wise believe we should recognize the legal rights of animals only to be logically consistent? Humans have rights and some animals are like humans. Therefore some animals deserve rights. Wise seems impatient with such musings. He argues that human rights are recognized only on the ground that the “why” of such rights is not raised. But if that is the case, then the alternative to legal positivism by the State is just a different form of legal positivism by the rest of us. Rights are just a posit. If that is the case, can they really last?

Title: The End of the American Experiment

Date: 2014-05-03T16:16:00.002-04:00

5/3/2014—I'm writing a book about the effect of nihilism on American law. But people do not really understand what nihilism is and how deadly its effects can be.

So, here is an example. In an article about former Vice-President Dick Cheney—Cheney, "The More Ruthless the Better"—Mark Danner writes about an exchange from the film, *The World According to Dick Cheney*, directed by R.J. Cutler and Greg Finton: "Asked about waterboarding by filmmaker R.J. Cutler, [Cheney's] retort is... quick and brutal:

'Are you gonna trade the lives of a number of people because you want to preserve your, your honor, or are you going to do your job, do what's required first and foremost your responsibility to safeguard the United States of America and the lives of its citizens. Now given a choice between doing what we did or backing off and saying, "We know you know their next attack against the United States but we're not gonna force you to tell us what it is because it might create a bad image for us." That's not a close call for me.'

Now, the point of this for nihilism is the sneer at honor. You can hear Cheney's incredulity by his repeating the word "your"—as if it is incomprehensible that anyone could care about something like honor when lives are at stake.

This is nihilism. Not, of course, that one might sacrifice even honor to save lives—that might be a tragic necessity. But this quote is not about a tragedy. For Cheney, honor is not something worth worrying about. And that is exactly what Nietzsche meant by the death of God. Nietzsche was referring to the death of a world in which things like truth, goodness and beauty really matter. Nietzsche knew that they don't matter anymore.

Nor is this just Cheney's view. It is neither his psychology nor his ideology that leads to this result, though they are relevant. To see that this is not just Cheney, remember the response by the political left to John Yoo's arguments, and the film *Zero Dark Thirty's* suggestion, that torture works because it led to information that enabled the United States to locate Osama Bin Laden. The left was greatly embarrassed by this claim and went to great lengths to try to show that torture does not work.

But that effort was to concede Cheney's point that you torture if it works. The left is just as disdainful of honor as is the right—or, at least, just as certain that honor does not really matter.

Now contrast both these positions with the endorsers of the Declaration of Independence. Here is its final paragraph:

"We, therefore, the representatives of the United States of America, in General Congress, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be free and independent states; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the state of Great Britain, is and ought to be totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

For these men, honor was as significant, maybe more, than fortune and life. And need I remind you that fortune and life were at that moment very much at risk. Yet honor is the last word. And even if some of them were scoundrels in fact, as I have heard, they still knew what was important.

We—you and I—are no longer their equals. Partly we are to blame. But partly, it is the time—the time of nihilism.

Title: A Brain Dead Decision

Date: 2014-05-05T20:39:00.002-04:00

5/5/2014—Having worked very hard to justify a form of legislative prayer in a law review article—Toward a Meaning-Full Establishment Clause Neutrality, 87 Chi-Kent L. Rev. 725 (2012)—I really resent the brain dead decision written by Justice Kennedy in the Town of Greece case today, upholding legislative prayer. Specifically, the majority opinion upheld legislative prayer on grounds of history. We have always had it. But this is no argument at all. We had school segregation as long as we had Equal Protection, yet overturned the practice. We always punished flag desecration until it was held unconstitutional. And so forth. It is no argument that a practice has always existed. The point is how a long standing practice helps us understand the meaning of the constitutional provision at issue. We can be sure that history is not really decisive. The real point is that something about legislative prayer makes it not unconstitutional. When the majority can explain what that is, we will all understand the Establishment Clause. Unlike today.

Title: Would the World Be Better Off Without Religion?

Date: 2014-05-11T01:13:00.000-04:00

5/11/2014—The kidnapping of hundreds of school girls by the terror group Boko Haram raises two generally related questions that critics of Islam and religion, respectively, have been trying ask for years. First, as Ayaan Hirsi Ali argues, is this hatred of the education and rights of women actually representative of something deep within Islam—not, in other words, an aberration? Second, as Christopher Hitchens argued in his famous book, does religion indeed “poison everything?” For a long time, in my own mind at least, I have answered these two questions in the negative by marshaling countervailing evidence on behalf of Islam in particular and religion in general. After all, the hookup culture of the West demeans women quite effectively and quite a number of women in America are killed by their partners. And religion is also responsible for much of the good things that happen in the world, despite the crimes committed in its name. But I now think that questions like these are not actually meaningful. They assume that Islam and religion are somehow open to debate—as if they might disappear if these questions are answered in one way or another. That of course is a fantasy. No human culture has ever been without religion. And Islam is the religion of 1.6 billion people, 23% of the world's population. Islam is not going away either. So, I no longer respond to questions like these. The point, instead, is to work for change—change within our own traditions—in my case, secularism, which has baggage of its own (including a willingness to use violence through Western governments). Drones undoubtedly kill more schoolgirls than Boko Haram ever will. To be fair, Ali is approaching Islam in that spirit (whether she is still a Muslim I have no idea). She calls upon Muslims who contest violent and oppressive interpretations of Islam to be as active and forceful as are their opponents—to take back Islam, so to speak. For religion in general I am willing to say this: people kill and oppress each other. They do so in the name of all sorts of things—land, money, ideology, their way of life and, yes, religion. I doubt that the name and content of our commitments cause this violence. The cause lies deeper than that.

Title: When Science and Religion Mixed

Date: 2014-05-14T23:04:00.000-04:00

5/14/2014—One thing the new Cosmos series has emphasized is the harm that religion has sometimes done to science. Indeed, my fellow atheists have praised the show just for this comfortable assurance. So, imagine my surprise when, in the last episode, the Christian faith of Michael Faraday—one of the most influential scientists in history—was specifically mentioned as a source of comfort and humility. Certainly that is true. One gets neither comfort nor humility from atheism. But this way of looking at religion neglects the aspect of religion as truth. Watching Cosmos' treatment of Faraday, the most significant aspect of his thought seems to have been his certainty that the phenomena of electricity, magnetism and light had to be linked. The theory of electromagnetism was born from that commitment. As I watched, I wondered whether this certainty in the unity of reality was not a result of Faraday's Christian faith. It is not surprising to read in Wikipedia that "[b]iographers have noted that 'a strong sense of the unity of God and nature pervaded Faraday's life and work.'" Modern atheism likes to pretend that it reflects reason and religion partakes of the irrational. Faraday is a reminder that science is possible only when the unity, order and intelligibility of reality are assumed. Science arose in the West out of the Christian conviction that in knowing the world, humanity comes to know the mind of God. Forget whether such a thing as God exists. The unity, order and intelligibility of reality are part of what the word God reflects. That is part of the reason that the national motto, In God We Trust, is not a purely religious sentiment.

Title: The End of Democracy

Date: 2014-05-17T06:43:00.002-04:00

5/17/2014—What did the German philosopher Martin Heidegger mean when he said that democracy might not be possible in a technological age? Here is the famous quote on democracy, from an interview in *Der Spiegel*, a German weekly newsmagazine, in 1966:

“[T]he last 30 years have made it clearer that the planet-wide movement of modern technicity is a power whose magnitude in determining [our] history can hardly be overestimated. For me today it is a decisive question as to how any political system -- and which one -- can be adapted to an epoch of technicity. I know of no answer to this question. I am not convinced that it is democracy.”

Can we see what Heidegger saw 48 years ago, especially since we are now in the habit of celebrating the role of social media in political movements? People are closely connected, beyond the power of dictatorial regimes to suppress them. We have many stories of twitter and facebook spreading information that helps bring down dictatorships. And we have nascent projects of technology and democracy, for example the Center for Democracy & Technology.

Maybe Heidegger was just dark and continental, in the way Americans sometimes think about philosophy--that it is abstract and irrelevant.

To see the technological threat to democracy, think about nature. Bill McKibben's 1989 book, *The End of Nature*, made the point that human civilization was rendering the non-human world non-natural. In a way, whether we acted for good or ill, whether humans intervened to destroy or save, the non-human world was no longer autonomous. It was no longer nature. The whole world had become a human construct. Global warming just confirms that not much happens on this planet that is not affected by human activity.

The political equivalent of the natural in the environment is the will of the people. The point of democracy—its founding myth—is that the will of the people be expressed in political activities such as elections.

But what if there is no such will? What if the outcome of elections, in all but the most extreme cases, can be determined not by overall shifts in social sentiment concerning important issues, but instead can be manipulated by techniques of voter turnout and political gerrymanders? The increasingly sophisticated use of data in politics, backed by large money on all sides, makes the simple notion of the will of the people seem quaint and irrelevant, just as there is really no longer any nature. This is the effect of technology on democracy.

This is not a partisan observation. Neither political Party cares one bit for the will of the people. In the 2012 election, the Republican use of the political gerrymander allowed that Party to control the House of Representatives against all expressions of national sentiment. In North Carolina, for example (Pennsylvania was similar), Sam Wang reported in the New York Times on February 2, 2013, “the two-party House vote was 51 percent Democratic, 49 percent Republican, the average simulated delegation was seven Democrats and six Republicans. The actual outcome? Four Democrats, nine Republicans — a split that occurred in less than 1 percent of simulations. If districts were drawn fairly, this lopsided discrepancy would hardly ever occur.”

On the Democratic Party side, turnout has become the science. Democratic analysts understand the problem with non-Presidential year elections, such as the upcoming 2014 fall elections is that elderly white voters always vote, whereas “their” groups—the young, minorities, poorer people etc.—do not. They have recast the narrative of the 1994 “Contract With America” election from a negative popular referendum on President Clinton to an off-year election with a turnout of only 39% of eligible voters. In response, the Democratic Party is putting resources into the Bannock Street Project in which \$60 million spent on getting out the vote in ten states might turn the tide in the Senate elections.

I am not criticizing anybody here. The point is that no election outcome is now natural, just like nature is no longer natural. In a technological age, we know too much to consider events as just happening. But if democracy is no longer simply the will of the people, if it is now the result of sophisticated techniques on both sides, backed by big money that makes that possible, what is democracy’s legitimacy? Why should anyone care what the result of an election is—beyond its direct effect in giving power to somebody? In a technological age, democracy is no longer ours. It is theirs. Like everything else. Heidegger may have known what he was talking about.

Title: Governor's Move Pure Politics

Date: 2014-05-23T09:42:00.002-04:00

5/23/2014—I am delighted that Pennsylvania is finally recognizing gay marriages through a decision by U.S. District Judge John Jones striking down Pennsylvania's ban on gay marriage. I would have preferred that the legislature did it, however. This kind of judicial decision-making is not as healthy for democracy as is a democratic decision. On the other hand, why should gay couples have to wait for justice? The fault is with the legislature for failing to act. That said, Governor's Corbett's decision not to appeal is pure politics and makes no sense legally. Corbett says that an appeal would certainly fail. Really? In what court? The issue of gay marriage will finally be decided not by a District Judge but by the Supreme Court. I count four votes there to uphold bans on gay marriage—Chief Justice Roberts, Justices Scalia, Thomas and Alito. They do not look to be changing their minds. So Corbett's claim that an appeal would certainly fail amounts to saying that it is certain that Justice Kennedy will vote to strike down bans on same-sex marriage. That is possible of course. But it is not certain. Justice Kennedy was careful not to decide the same-sex issue in the Windsor case. The fact that 14 judges in a row have ruled in favor of gay marriage shows that Kennedy may well vote to strike down such bans. But if he votes the other way, Corbett's refusal to appeal means that the decision striking down the Pennsylvania ban will remain the law, even though in hindsight erroneous. If Corbett were interested in the welfare of the gay couples marrying in the interim, he could have appealed while not asking for a stay. All such marriages would then have remained valid even if the ban on gay marriage had ultimately been upheld. I hate to see hypocrisy like this. Corbett is just trying to cool off the Democratic base as he fights for reelection. It would be one thing if he were convinced that the ban on gay marriage really is unconstitutional—like Attorney General Kane. But the Governor says he is not convinced. Well then, he should have stuck to his guns and appealed. Will the Republican legislature now begin impeachment hearings against the Governor? How is his decision not to appeal any more defensible than that of the Attorney General not to defend Pennsylvania's law?

Title: The Privatization of Health Care

Date: 2014-05-29T06:46:00.000-04:00

5/29/2014—My wife and I are on a family visit/vacation trip, including a wonderful wedding last week, so this blog has not been attended to. But it is impossible not to notice the continuing fighting going on in Pittsburgh between UPMC and Highmark. UPMC intends not to renew the agreement between the two healthcare systems, so that people with Highmark insurance will simply not have access to UPMC facilities. The genesis of this fight is the decision of Highmark to partner with the Allegheny Health Network so as not to be subject to a hospital monopoly by UPMC when West Penn and Allegheny General Hospital were having financial trouble. UPMC now considers Highmark a hospital system rival and says it will not deal with it. I suppose that this would all be understandable if these were two private businesses. But they are not. Not only is there a lot of public money involved, so that both businesses should be subject to public oversight, both are tax exempt non-profit entities. Neither one is supposed to be run with any profit motive at all and the Attorney General is supposed to be ensuring their compliance with the public good. Some legislators are trying to pass legislation to force UPMC to deal with Highmark. But the legislature thus far has refused to act. Governor Corbett brokered a temporary deal but has not backed a permanent solution. There is a lot of loose talk about government not getting involved. But of course that is nonsense since these entities don't even pay taxes. The relation of all this to hallowed secularism is this—the concept of the public interest is a part of all that religious talk that secularists say they don't like. This is an example of where naturalism/materialism actually leads--to self interest and nothing else. In the non-profit.charitable sector, we are talking about a role that churches used to fulfill. Churches bring their own problems—for example Catholic Charities does not want to place children with gay couples. But now we see the other side. The nonchurch nonprofits may just become money hungry businesses, like UPMC.

Title: Do You Have To Believe in God to Be Jewish?

Date: 2014-06-05T13:21:00.000-04:00

6/5/2014— I had a talk with a friend of mine yesterday, who is a member of Temple B'nai Israel in White Oak, Pennsylvania. Five years ago, Danny Schiff, who had been a Rabbi there and had also been the community scholar at the Agency for Jewish Learning in Pittsburgh left those posts in order to move to Israel. My friend remembered that Schiff used to say that one did not have to believe in God in order to be Jewish. And my friend wanted to know what I thought about that. I mention the fact that Schiff moved to Israel in order to situate the position that Judaism, or rather being a member of the Jewish people, is probably for Schiff more akin to an ethnic or civilizational identification than it is to anything like religious belief. In this way, Schiff's position is probably very close to that of Mordecai Kaplan, who inaugurated the phrase Jewish civilization. Now, since I left Judaism precisely over matters of belief, I might be expected to disagree with this position, to insist that Judaism represents a series of beliefs to which one must ascribe. But, actually, I think there is a lot to be said for the identification position. Certainly, Judaism would have died out long ago if more people had been like me and less like Schiff. Yet, if one accepts that Judaism passes by familial line, so that if a boy is circumcised and has a Jewish mother, he is Jewish, and similarly for a girl (without the circumcision), then the question must arise, what difference does being Jewish make? If we imagine a Judaism more or less uninfluenced by religious elements, then what one has is the population of a state. This is good definition for the state Israel, and in that sense the future of the Jewish people would be guaranteed, as is the future of the Polish people because of the state of Poland. But what does one then have? Judaism would survive in such a country because it would have the backing of a political entity. And the history of Judaism would be preserved for the same reason. But in the long run, would this situation guarantee anything valuable? Zionists like to point out that the center of gravity for Judaism has dramatically shifted to Israel. This is absolutely so. All other Jewish communities, with maybe an exception for the US, are now appendages to Israel. And Jewish cultural expression is now almost solely Israeli. But, may I ask for one religious advance that has come with this situation? In fact, the opposite is the case. Now Israeli politicians, men and women without any deep religious commitments that I can see, purport to speak for the Jewish people. Increasingly, the religion is taken over by what is simply a nationalism. That may be the consequence of Judaism without God as its center—even the absent God as its center.

Title: "It matters what's true."

Date: 2014-06-09T05:41:00.000-04:00

6/9/2014—We learn two things about meaning for Neil deGrasse Tyson in the last episode of the new Cosmos series. First, we learn that the breezy nihilism that I wrote about on this blog back on March 28 of this year from Episode 3--"We hunger for significance. For signs that our personal existence is of special meaning to the universe. To that end, we are all too eager to deceive ourselves and others. To discern a sacred image in a grilled cheese sandwich."—does not entirely reflect his view of the universe. Last night, in asking why it is worth doing science—by implication even if there is no economic pay off—Tyson said, "Because it matters what's true." Yes, it does. It matters. To paraphrase Tyson earlier, truth is of special meaning to the universe. And because truth matters, our efforts to discover truth are of special meaning to the universe. And because these efforts matter, we humans, and any other self-aware life that exists, are of special meaning to the universe. We very much need to wake up from the dream of nihilism. We also learn why Tyson is so earnest in claiming that we are not special. He is copying Carl Sagan. Last night, in the last episode, Tyson reframed Carl Sagan's "pale blue dot" monologue from the first Cosmos series. Tyson asked NASA to take one last picture of Earth as Voyager passed Neptune. Then, in the show, the viewer watches as Earth fades to the "pale blue dot." When Sagan says humans are not special, he is hoping that human cruelty will be lessened. But he is mistaken. Humans kill each other because of their fear that they are nothing. Not because they believe they are special. Nietzsche very agreed with both Sagan and Tyson that we are not special.

Title: The New Spirituality

Date: 2014-06-13T12:49:00.000-04:00

6/13/2014—It is very worthwhile for my readers to take a look at a review of the new movie, *The Fault in Our Stars*, by Jodi Eichler-Levine, Associate Professor of Religious Studies at the University of Wisconsin, Oshkosh. ([review here](#)). The title of the review refers to the "blockbuster spirituality" of the original novel by John Green. It is not that Professor EC (I hope she does not mind this contraction) is criticizing the movie compared to the book. Rather, she is praising the spirituality presented in the movie, but attributing it, properly, to the original book. Professor EC notes that Green served as a hospital chaplain and had considered a career in Christian ministry. Of course the novel in the movie the question that Green has said he is interested in, which is why some people suffer and others do not. Professor EC puts the matter very well when she writes that the success of the movie "is enmeshed with the sparkingly vast, multifaceted nature of contemporary religious life." The main character, Hazel, makes jokes about angels and harps. But her father responds more deeply: "I believe the universe wants to be noticed. I think the universe is improbably biased toward consciousness, that it rewards intelligence in parts because of the universe enjoys its elegance being observed. And who am I, living in the middle of history, to tell the universe that it—or my observation of it—is temporary?" Professor EC calls this quote a cosmology for our times: a passive yet hopeful plea to a vast, personified universe. And she also notes all those atheist who find beauty in God and the religious nones who still pray. It is a great review. Professor EC has a lot to tell us. I expect to be returning to her thoughts.

Title: The Decline of Islam

Date: 2014-06-18T05:19:00.002-04:00

6/18/2014—Karl Barth once said, I can only repeat myself. Of course, he had a deep reason for saying this—he was simply witnessing in different ways to the self-revelation of God in Jesus Christ as God for us. So, it was always this story—what other story could it be? I am also going to repeat myself. If you search this site for the phrase Wars of Religion—the endless fighting primarily between Catholics and Protestants in Europe that occurred between the beginning of the Reformation in 1517 and the Peace of Westphalia in 1648—you will find that since 2009, I have pointed out the similarity between that era of religiously motivated war and the current violence in Islam. The sectarian slaughter in Iraq between Sunnis and Shiites, makes that analogy quite clear. But I have been utilizing that analogy for a different reason than just suggesting that there has been violence in Christianity also. Rather, I have been looking at the consequence of the Wars of Religion. That consequence is often told in American law—exhausted by the Wars of Religion, people decided on two responses that turned out to be related. First, the separation of church and state, which took different forms. Even in countries that maintained established churches formally, the rights of citizens and the business of government were no longer wrapped up with religion. Second, more generally, secularization. Essentially, after the Wars of Religion, people decided they could not trust Christianity. Christianity had proved to be a problem for humanity rather than a solution. And so it will be with Islam. First, Muslims will decide that political life has to be separated from religion. Muslim countries will still be Muslim, but political life will be taken away from the clerics. Second, more Muslims, especially among the young, will question whether Islam could really be true, when its most committed followers are engaging in cold blooded murder. How long does this take? Consider how Europe looked in 1648, compared to 2014. How long did the process of separation and secularization take? For Islam it will be much faster. I bet the trends will be evident by the end of this century.

Title: You Cannot Make Peace With These People

Date: 2014-06-22T06:11:00.002-04:00

6/22/2014—Ever since the kidnapping of three Israeli teenagers last week, I have been thinking about what this act means for the prospects for peace. On the immediate level, it makes peace impossible. Israelis overwhelmingly feel exactly what the title above says. In the longer run, it is one more hateful act by people motivated by religion that delegitimizes religion in the eyes of the world. I hope for the safe return of the children and that may happen. But thinking of the brutality that takes place on both sides of the Israeli-Palestinian conflict, it is important to remember how peace happens. In every conflict you can think of—Ireland is a good example—unthinkable crimes have been committed by both sides and both sides have responded by saying, “You cannot make peace with these people.” But peace still comes, still can come. Maybe it just comes from exhaustion. Maybe, unfortunately, the brutality of both sides convinces both sides that peace is necessary, so that even vicious actions lead to better results. The point is, you make peace with enemies, not with friends.

Title: The Coming Revolution in Islam

Date: 2014-06-25T05:22:00.001-04:00

6/25/2014—Readers of this blog will know of my contention that the current convulsions in the Arab world are similar to the Wars of Religion that beset Christian Europe from the Reformation until the Peace of Westphalia in 1648. Further, I believe the result will be similar—the weakening of religion and the growth of secularization. Thomas Friedman has a piece in the New York Times today singing the same song as mine. The contrast is between ISIS, the Islamic State in Iraq and Syria that executes its prisoners and SISI, the President of Egypt. Friedman quotes Orit Perlov, from Tel Aviv University, to the effect that these are two sides of the same coin—“one elevates God as the arbiter of all political life and the other the national state.” Both fail to deliver peace and prosperity and must be replaced, says Perlov, by a new generation that puts society in the center, that asks not how we can serve God or the State but how they can serve us. Friedman even uses the word I have used—that the Islamic and national models have to be “exhausted.” Friedman says the only idea that works is “pluralism in politics, education and religion.” OK. So the Muslims have to become more like us. They have to be relativists, democrats and capitalists. But, what makes Friedman think that our model works in the long run? Sure, it’s better than a civil war or a military dictatorship. But don’t be so certain that our model has the sustaining power to avoid those outcomes. The American people are descending into a mutual pointless hatred that is the fruit of “pluralism in politics, education and religion.” A society that believes nothing except that people disagree may not be sustainable.

Title: Another Reason to Hate Religion

Date: 2014-07-01T14:54:00.000-04:00

7/1/2014—The decision yesterday in the Hobby Lobby case, and the accompanying orders today affirming even broader religious exemptions for closely-held corporations that oppose all contraceptive coverage, were inevitable given the Religious Freedom Restoration Act. That statute was passed in 1993 by an almost unanimous Congress to reverse the refusal of the Supreme Court to allow religious exemptions under the Free Exercise Clause of the First Amendment. Although it is hard to believe now, that decision, *Employment Division v. Smith* in 1990, pitted the more conservative members of the Court—Justice Scalia wrote the majority opinion on behalf of Chief Justice Rehnquist, and Justices White, Stevens, O'Connor and Kennedy—against the most liberal members of the Court—Justices Brennan, Marshall and Blackmun. At that time, rights for religious believers were still regarded by the left as a good thing. Only Justice Stevens would feel at home in today's anti-religious atmosphere.

My perspective on Hobby Lobby is not the same as that of most other people. The question for me is, what effect will the decision have on the rapidly increasing secularization of this society, especially among the young? The answer, as far as I can tell, is that the decision will contribute to that secularization. The proponents of the religious exemption have not convinced anyone except the Justices that granting these exemptions is fair and just. To many people, especially young people, especially women, the decision just seems like one more instance of bullying by wealthy men and powerful corporations.

First, does the exemption threaten to limit contraceptive services or are these services so cheap that most people pay for them themselves? Some are, many are not. Vasectomies, I read, were never covered by the Affordable Care Act in the first place.

Second, are there alternatives for employees whose employers are granted exemptions? Probably. Justice Kennedy, the fifth vote, seems to feel that the religious non-profit exemption could be applied to the for-profit corporations that are granted exemptions. If so, since that exemption was accomplished by executive action, no Congressional action would be needed to expand it. Under that exemption, the insurance carrier pays and even the self-insured are included. Yes, that exemption is under attack, but Justice Kennedy would be the fifth vote to uphold it.

Third, what about religious exemptions in the future? Despite the attempt to write a narrow decision, it is now open season for employers and individuals to object to government policies on religious grounds. The majority opinion suggests that Justice Alito believes that race discrimination and opposition to vaccinations would not be accommodated, but these are more like ad hoc hopes than legal holdings—just like Justice Alito's hope that publically held corporations will not raise religious claims. Why not? Chevron spent money on the past election cycle.

And as more employees are inconvenienced by wealthy interests, and as public health and policy are more and more threatened, the Religious Freedom Restoration Act will become the target for repeal by a growing secular cohort that will eventually be a majority. In the meantime, anyone hoping the young will rediscover religion will be disappointed.

It could have been different. More on that later in the week.

Title: Hobby Lobby, Next Stop

Date: 2014-07-04T06:53:00.002-04:00

7/4/2014—Happy Fourth of July. The New York Times reports today that the Supreme Court, before its term ended, issued a temporary injunction allowing Wheaton College, a small Christian school, not to use the form that the Hobby Lobby case had suggested was an alternative from an employer providing contraceptive services for its employees. Under the government's administrative religious exemption, the employer provides a form to the insurance company and the insurance company provides the coverage at no cost to the employer. The idea in Hobby Lobby was that the coverage was not that necessary since this alternative exists. The order suggests maybe it does not. Justice Sonia Sotomayor dissented from the order, joined by the other two women on the Court, Ruth Bader Ginsburg and Elena Kagan. This is an odd story since Justice Kennedy had specifically endorsed this compromise. But you cannot tell much from an order like this. (I haven't looked at it yet anyway). But in the larger picture, the effect is awful. The three women object. The men allow it. And look at the so-called discrimination—you have to send in a form? Not exactly being required to renounce God, is it? This is a perfect example of what is wrong with RFRA. As a general, rights-based remedy, it encourages just this kind of oversensitivity by religious practitioners. I don't mean that the religious claimants are insincere. I mean that they are overwrought. They are showing poor judgment. What is the purpose of practicing religion, specifically the Christian religion? What did Christ tell his disciples to do? To convert the world. Is this action going to do that? Or will it do the opposite? And the worst part of all this is the ultimate position of the religious claimants. They all agree that if the government just covers these services, they have no objection. So, they are not even fighting the evils of birth control and abortion. They are actually just playing at being Pontius Pilate.

Title: Ross Douthat Calls Out Liberals

Date: 2014-07-07T05:19:00.000-04:00

7/7/2014—It was very good that Ross Douthat reminded liberals in his New York Times op-ed on Sunday that the Hobby Lobby Corporation pays its workers \$15/hour. Douthat's point is both small and large. The small point is that the Green family really does live their Christian values in the company. They pay and treat their workers better than most companies, despite the company's enormous size (\$3 billion in revenue). The Green family is not saving money in their quest for a religious exemption. But the larger point is even more important. Where do liberals think the values of social justice come from if not, at least in part, from religion? Liberals not only should change their narrow-minded view of religion, they should be happy to do so, because religion is an important potential ally in so many areas. And, anyway, what ever happened to pluralism, so vaunted by most liberals most of the time? It is troubling that the left is now insisting that businesses can only serve the bottom line when we used to call on corporations to do more—and Hobby Lobby actually does more. This is a lot to think about and well worth pondering. But it was ironic that the day before the Douthat op-ed appeared, Hobby Lobby placed its annual Fourth of July ad in the newspapers in which they advertise praising America as a Christian nation and touting In God We Trust. The Green family has no interest in pluralism. The Christian right does not dominate America anymore because they cannot, not because they don't want to. I guess Douthat would say, so what? Liberals should still appreciate the Green family and others like them for what they do.

7/10/2014—On the heels of Hobby Lobby, there is now a controversy over discrimination against gay people. President Obama is considering an executive order banning discrimination based on sexual orientation and gender identity and there has been proposed somewhere in Congress the Employment Non-Discrimination Act that would do the same nationwide. First question—are exemptions for religious people generally a good public policy? I believe the answer is yes, but that position is now being challenged in the legal academy. Second—does business have anything to do with healthcare? We see increasingly that it does not. The practical problem pushing religious exemption issues is that businesses and even nonprofits have to endorse healthcare policies for its employees that are really none of an employer's business. How many conservative religious groups are now willing to endorse single-payer healthcare as a way out of the religious exemption problem? (in the long run). Third—is there any basis on which profit-making businesses should be allowed to discriminate in their work forces because of religious beliefs? I think it is clear that the answer is no and that almost all religious groups agree with that. People have a right to work. Finally, should non-profits be able to discriminate in employment? Here I believe the answer is mixed. Maybe a religious organization needs to limit its membership to its own religious group in order to provide witness to why it is serving the public. But the discrimination has to be religious, not based on sexual orientation, gender, race etc. Most religious nonprofits do not feel that this is necessary, but some do. There never has been a question about people receiving benefits, especially in contracts with the government. Here, no religious discrimination has ever been permitted. These seem to me to be starting points for discussion. They don't solve the immediate healthcare issue, but it would be worth finding out how much of the controversy is only about that. Once healthcare is separated from hiring and firing, maybe discussion can go forward. There remains the tendentious but narrow issue of adoption. But here religious providers have to be pushed. Previously, some religious adoption agencies insisted on a couple being married before allowing an adoption. That excluded gay couples and straight couples. If an adoption agency has a contract with the government, that is the only criterion the agency should be permitted.

Title: What is the Theology Behind Religious Exemptions?

Date: 2014-07-12T12:33:00.000-04:00

7/12/2014—What exactly is the theology behind religious exemptions? The answer seems clear enough when I am directed to do a forbidden act or forbidden to do a required act—for example, a Muslim woman forbidden to wear a head scarf. The answer seems equally plain when the evil involved is extremely serious, a grave matter, as the Catholics would say. So, even indirect aid to commit an abortion would be a very sensitive matter, as is the case in some of the contraceptives in Hobby Lobby type litigation. The government is apparently not allowed to ask why exactly a religious practitioner objects to participating in certain actions, but the religious communities should be anxious to do so. And those of us who believe we have a stake in the openness of secular society to religious beliefs, should also be anxious to do so. So, let's leave an employer paying for abortion and birth control out of it. The new issue is discrimination against gay people. Some religious groups are asking for a religious exemption from laws banning discrimination against gay people. This seems theologically indefensible to me. To change the frame for a moment, why would a landlord not want to rent an apartment to a gay couple? Because the gay couple are committing a sin. But the landlord does not know this as a fact. It is not a sin for two people to live together. Conversely, the landlord knows for a fact that in his own home, he lives a life of sin. Perhaps he uses artificial birth control or perhaps he commits adultery or perhaps he simply does not love his wife as he ought to. How about the government contractor? No one is suggesting that clients may be discriminated against—no food for a gay couple from a food bank. So presumably this is a matter of hiring. But it is not a sin to employ a gay person. How could it be? You are hiring a sinner no matter who you hire. Even, especially, if you are a sole practitioner. Christians are not to judge others in this way, as if others sin and not Christians. It is indeed the other way around. The sin of a Christian is far more serious because it involves the denial of truth the Christian knows. The non-Christian is ignorant of, and potentially open to, the truth. I thought the ultimate question is always, how is conversion possible? It is obvious that Hobby Lobby has rendered conversion less likely. But, maybe I am mistaken about that. Maybe the Christian witness is under such attack today that conversion is no longer the issue. Maybe today the question is the demoralization of the body of Christ. So, maybe today oversensitivity is to be sought, so that the Church may be heartened. Is this the theological justification I have been missing?

Title: A Good Letter on Discrimination

Date: 2014-07-17T07:06:00.002-04:00

7/17/2014—A few days ago, 50 prominent law and religion experts sent a letter to President Obama urging him not to put expansive religious exemption language into an expected executive order banning discrimination based on sexual orientation and gender identity. The letter compares discrimination in this context to Title VII accommodation cases. The letter discusses matters with which, frankly, I am not familiar. Fortunately, I am too small a fish to have been asked to sign. So, I will be sending my own letter to President Obama, also urging him not to add expansive religious exemption language. But my reasons are simpler. The Religious Freedom Restoration Act as interpreted by the Supreme Court in the Hobby Lobby case contains a bizarre incentive. In that case, the government's exemption was used against it to suggest that if a religious exemption could be offered in some contexts, there could be no reason not to offer it everywhere. In other words, offering religious exemptions now is interpreted to lessen the government's interest in banning discrimination, or whatever goal the government is pursuing. Until RFRA is clarified, no administrative exemptions can safely be offered, especially not in the area of discrimination.

Title: The Problem With Capitalism

Date: 2014-07-19T06:33:00.003-04:00

7/19/2014—I have been introduced to the influential Russian Orthodox thinker Sergii Bulgakov. His masterwork is *Unfading Light* and I also have a collection of his works, *Towards a Russian Political Theology*. Russia's current actions in Ukraine, which culminated in the shooting down of a civilian airplane yesterday, widely attributed to Russian armed separatists in Eastern Ukraine, makes an acquaintance with Russian Orthodox thought increasingly relevant. Putin is reputedly a student of such thought. But Putin is not my particular interest. The two themes that Bulgakov addresses (for me) are socialism and human salvation. Socialism remains in some sense the only real alternative to capitalism. It also remains the only mirror in which the harms of capitalism can be viewed. Americans have not been able to think about any alternatives to the current political/economic organization. This is a failure of social imagination—as Roberto Unger has emphasized. For Bulgakov, socialism was a real possibility because he was a proponent of it before the Bolshevik revolution, a critic of it afterward and ultimately a thinker of it. The revolution of 1917 and the subsequent actions of the Soviet government demonstrated the evils of State collectivism. Bulgakov thought the problem was spiritual. Soulless socialism could never work. But soulless socialism is all the left can offer in the United States. Think of it this way—if materialism is true and individualism is good, why not capitalism? It is best at both. Only if materialism and individualism are false, or at least only partial, is capitalism mistaken. As for salvation, Russian Orthodoxy, Orthodox Christianity in general, did not shy away from the goal of divinizing humanity. A real change in the human was its goal. America has no such thought. And this lack of hope shows.

Title: Break Until Friday, 7/25.

Date: 2014-07-19T17:38:00.003-04:00

Title: The Return of Teleology

Date: 2014-07-26T00:47:00.002-04:00

7/26/2014—When I got to New York City on vacation last week, I ran into a shock—an op-ed in the New York Times by George Johnson describing new thinking about the nature of reality (Beyond Energy, Matter, Time and Space). Simply put, it is now being considered by some really smart people that there might be more to what is real than simple materialism and empiricism allow. Two such approaches are teleology and mathematics. In terms of teleology, Johnson cites in particular Thomas Nagel and Stuart Kauffman—persons readers of this blog are familiar with—and David Chalmers. The basic idea is that mind, consciousness, is built into the universe, either as goal or ingredient. The other non-purely-physical approach is that of Max Tegmark, who suggests that mathematics itself provides a kind of blueprint for reality—an idea that I have seen in Hilary Putnam. Putnam wrote somewhere that we are justified in calling mathematics real by the success of natural science in using mathematics to explain and predict the world. The reason this op-ed excited me is that once ideas get into the New York Times, those ideas must be penetrating the culture quite deeply. So, the scientific viewpoint—space/time/matter/energy—that Steven Smith rightly identified as the viewpoint of at least law's elite, is now coming into question. And that view—that reality is blind forces—is the foundation of nihilism. Maybe, we are moving to a new beginning.

Title: Americans Are Israelis

Date: 2014-07-28T06:49:00.003-04:00

7/28/2014—In a perceptive review in the New York Review of Books, Jonathan Freedland notes the reference by Ari Shavit in Shavit's book, *My Promised Land*, to the fate of the Palestinian city of Lydda in 1948—the new Israeli army killed 300 civilians and forced all of Lydda's inhabitants to flee. Freedland puts the point bluntly—“[Shavit] implicitly accepts what anti-Zionists have long argued: that the eventual dispossession of Palestinians was logically entailed in the Zionist project from the outset... .” Shavit, however, cannot just condemn the massacre from a comfortable distance. He recognizes that the very fact of Israel's existence was dependent upon this act, and acts like it or threatened acts like it—and he and his family benefit from the existence of Israel as a Jewish State and are unwilling to give it up. Forget for a moment whether the premise is true, that such savagery was necessary—Martin Buber disagreed at the time, for example, and there was a bi-national-state Zionism. Freedland's description reminded me of another country whose settlers uprooted and killed its inhabitants—the United States of America—and I am unwilling to give that country up. I am in the exact same position that Shavit is. The only reason that America does not face the continuing conflict that Israel does is that the settlers did a much, much more thorough job of reducing the original inhabitants of the land to dependency. I don't know of any policy consequences that flow from this insight—payments for broken and coerced treaties? I'm not giving my house back to anybody. And where would I go? Like today's Israelis, I am here because of a crime I did not commit that I am unwilling to undo. This context of moral ambiguity—not over the original act, but over what to do now—gives new power to the Christian concepts of the fall and original sin. I have thought about those doctrines in terms of human beings doing bad things only because something happened to us. That kind of idea does nothing for me. But, what if a deeper, more troubling truth is shown in the fall—that we all live in morally fraught circumstances. There is literally nothing we can do that is morally clear. We find ourselves already both the victim and perpetrator of crimes both recent and ancient. And there is never a way out. That is our starting point. The question is, what follows from that kind of seeing?

Title: The Best Written Sports Illustrated Issue Ever

Date: 2014-07-30T05:47:00.004-04:00

7/30/2014—One thing I have already learned from Sergei Bulgakov, the Russian Orthodox thinker of the early 20th Century, is that you should judge fundamental commitments not as isolated ideas, but as a way of life. That was how Bulgakov thought about his return to Orthodoxy from atheism—what kind of life was a life lived in Orthodoxy. We must judge a way of life by what it ultimately offers to our lives. This was also the way that the thinker who influenced Bulgakov, and indeed many others in Russia, Vladimir Solovyev, thought about philosophy, according to Egbert Munzer, whose 1956 book, *Soloviev: Prophet of Russian-Western Unity*, contains this sentence: “Philosophy was to him a means to salvation, an idea which has become very alien to European thought.” So, how about secularism in America? What kind of a way of life is it? We get a snapshot of one kind of secular life—the one lived in sports—through the July 21, 2014 issue of *Sports Illustrated*, the one chronicling the return of LeBron James to the Cleveland basketball team. This issue contains two views of the secular life. One is from a story about Roger Angell, who received the J.G. Spink Award from the Baseball Writers Association of America on July 26 at the Baseball Hall of Fame in Cooperstown. In the story, Tom Verducci quotes a 1975 piece by Angell, *Agincourt and After*, on the question of caring about sports. Angell writes that it is obviously silly to care about a sports team, except “for the business of caring” itself. Really caring “is a capacity or an emotion that has almost gone out of our lives.” Now, I suppose an authentic religious life, the sort led by Bulgakov and Soloviev, would automatically contain a lot of caring. But secular life does not. Or at least not as much as religious living used to contain. And this has consequences. We see this week a story making the rounds in the media that researchers believe they have discovered that a life of meaning is healthier than a life of drift—the sort of drift that comes from thinking that life is one big accident. Here is the story. And it does not even seem to matter what the purpose of life is, in terms of the health benefits. The other snapshot of sports-oriented secular life is a series of shorter stories by various writers about their home teams. These stories include pictures of the writers’ own family life, their attempts to get their children to share their sports commitments. It is quite charming. It is a picture of committed fatherhood and family life—they are all men. Quite rare in its way outside a certain kind of church life. And this idea that sports is today a substitute for organized religion for the fans is often lightly suggested in *Sports Illustrated*—with its customs, and memories, and ceremonies—and caring. But, sports is not the Christ story. It is really not at all like religion. It will not teach us how to live.

Title: Christianity and the State

Date: 2014-08-02T06:46:00.001-04:00

8/2/2014—Micah Schwartzman, in a law review article entitled, “What if Religion is Not Special?” contrasts the views people have of religion for purposes of the Establishment Clause with their views of religion for purposes of the Free Exercise Clause. One position that Schwartzman points out as inconsistent is that of “Inclusive Accommodation.” This position holds that religion is an adequate ground for government action—hence religion is not special in legislating—but that religion should be granted constitutional protections from generally applicable laws (as in the Hobby Lobby case, but on constitutional, rather than statutory grounds). Hence religion is special for purposes of constitutional exemptions.

I ran into a similar kind of inconsistency in criticism I received over my attack on the Hobby Lobby Fourth of July newspaper ad that touted America as a Christian nation. I pointed out that the religious exemption granted to Hobby Lobby was a statutory exemption granted by a nation of diverse beliefs. I was accused of suggesting that religious liberty derives from the State.

This criticism evinces a Christian hostility to the State that derives from a view of a fallen world in which the State represents the secular realm cut off from God, while the Church represents the proto Kingdom of redemption. On this view, the religious liberty of Hobby Lobby is prior to anything the State does.

But the same critic who regards the State as fallen then turns around in the context of legislative prayer or Ten Commandment displays or even government generated crèches at Christmas time and wants the same fallen government to endorse religion or even endorse Christianity. In a sense, government power in these contexts is to be used to grant or maintain a kind of cultural centrality to Christianity. In these contexts, the State is not the fallen alien, but the bulwark of Christendom.

A related inconsistency can be seen on the anti-religion side, whatever name one wants to give it. Typically, such persons claim to want government to be neutral with regard to religion, but endorse policies that are anything but neutral. Granted, forcing Christians employers to grant birth control coverage they regard as a violation of their religious beliefs is not aimed at religion per se, and thus may be considered formally neutral, but its effect is harmful to religion. And the strong reaction against the Hobby Lobby decision suggests that some people on the anti-religion side are not at all concerned that Christians might be forced to violate their religious beliefs. And, remember, the decision assumed that no employees would actually lose any benefits. I doubt that the Christians affected see such policies as neutral.

It is probably best to consider religion as a valuable moral resource to society, one that society cannot well do without and one that should be protected, at least where that can be done without serious harm to others. And that is close to what the Supreme Court said and did in Hobby Lobby. But that does not mean that religions ought to be able to mobilize the resources of the State to uniquely further their position. Schwartzman calls my position here "exclusive accommodation" and he says it has problems of its own.

Title: Really Good News in Gaza

Date: 2014-08-06T04:47:00.002-04:00

8/6/2014—The 3-day truce in Gaza sounds much more promising than the media is treating it. Below the surface, good things are happening. Remember, Egypt could make peace only after some military success against Israel. Well, Hamas has had some success. The set up, with a Palestinian unity government negotiating with Israel, is about what Tom Friedman called for a few days ago in the New York Times as the beginning of a potentially new era. On the other side, the futility of Israel's position is now clear. Netanyahu is being criticized by the Israeli right for not being tough enough. That is rich. There is no future in constant war against Gaza. And the Obama Administration is vindicated. The blockade is on the table just as Secretary Kerry said. And by criticizing Israel, the Israelis could see how isolated they are. Congress cannot make President Obama veto UN actions against Israel. And Obama is the only President we have for the next 2 years. So, maybe, just maybe, peace breaks out. Or begins to. And we get to see what it means to have had a real realist in the White House. Perhaps we have underestimated Obama.

Title: Foolish Way to Support Israel

Date: 2014-08-10T22:22:00.001-04:00

8/10/2014—In the last issue of Pittsburgh’s Jewish Chronicle, one of the columnists wrote about the end of J-Street, the Jewish organization that promotes a two state solution for Israel and the Palestinians. I don’t remember the name of the columnist, but the same ideas have been circulating generally. Alan Dershowitz, the Harvard Law Professor who strongly supports Israel has been proclaiming J-Street dead because of the fighting in Gaza. The basic claim is this—there is no longer a place for moderate two-sided views. You are either for Israel or against it. J-Street would not join rallies pledging support for Israel. Yet neither would it condemn Israel. So, its supporters on the left have abandoned J-Street to join the boycott movement. It is hard to believe that smart people could be so foolish. If they are right that there is no longer a place for moderate support for Israel along with a commitment to justice for the Palestinian people—and they may be right about that—what do they imagine will be the consequence? Support for Israel is already waning among young Americans. If these leaders insist on a “for or against” stance, increasingly the outcome will be against. Maybe not immediately. But soon. The news from Gaza actually seems good today. The truce is extended. Israeli talk of going back into Gaza seems to be a negotiating tactic. Some end to the blockade, perhaps under international inspection, seems inevitable. Maybe peace has a small chance. People like Dershowitz seem to forget that peace is Israel’s only hope. Up until now, the US has assured Israel that it could not be completely isolated internationally. But that may not be true forever.

Title: How Would God Work?

Date: 2014-08-13T22:27:00.000-04:00

8/13/2014—If you don't believe in a being who does tricks with nature—as I do not (really cannot)—then what could God be like? My secularism was, after all, always to be hallowed. How is something hallowed given our current limited view of reality as stuff? Maybe the nature of God is not a good question. Maybe the question to be asked is, how would God work without the anthropomorphism? The phrase “God works in history” is intelligible as saying something about history, about its ultimate tendency. This would be the moral arc of the universe that Martin Luther King Jr. spoke of. But what about my personal life? How could God work in my life in a way that would touch me if there is no being who acts like a human being acts? Maybe a kind of answer emerges in the essay by Charles Simic in the New York Review of Books (August 14, 2014 issue). Simic is a poet. He came to America after WWII. He is today quite well known. Simic is not a religious practitioner. He writes this—“Even a nonbeliever like me feels, now and then, the presence of something outside of language and suspects that this brief experience of transcendence and encounter with being and nothingness is what defines him.” But there is more. The feeling above is inchoate. There is something more to reality than what we can see, touch, hear, taste and smell. But Simic also writes of a feeling of directedness. When Simic reads the poetry of Milosz (and others), he writes, “I knew immediately that I was being shown how to write about my own encounter with history... .” “Being shown?” Why did he not write that he realized that this was how to write about history. Because he had a sense that his future was not just in his own hands. Fate is the way nonreligious practitioners sometimes express this feeling of being directed. And Simic uses that image too. He writes that someone like himself, who was so impacted by the bloody history of Europe, “has no choice but to face the moral obligations fate has assigned to him... .” Would the word God change any of this in any way? If this is not religion, what is it? And how could a human being live without a sense of his own life like this?

8/17/2014 – – In the August 14, 2014 issue of the New York review of Books, there are two contrasting essays, one right after the other. The first, by Dan Chiasson, is about America's new poet laureate, Charles Wright. Here is how Chiasson describes "Wright's body of work" – – it "conducts a longitudinal study of the moods as they shift and change in time. And yet, to carry out such a project obligates a poet to passivity, to routine, even to monotony...." As Chiasson puts it, "This leaves a huge surplus of mind left over for memory...." Here is Wright on his college days: All I remember is four years of Pabst' Blue Ribbon Beer, A novel or two, and the myth of Dylan Thomas – – American lay by, the academic Chapel and parking lot. Oh yes, and my laundry number, 597. What does it say about me that what I recall best is a laundry number – – that only reality endures? (With apologies to Wright--the format on the page does not allow me to replicate his design of the poem.) There is something magnificent, but sad, about Charles Wright. Is this really all there is, a complete innerness? I suppose that is all there can be when there is no story of the universe as a whole. Contrast this with Pico Iyer's review of Richard Rodriguez's new book, *Darling: A Spiritual Autobiography*. Rodriguez is a gay Catholic, 70 years old, alert to the pain and suffering all around him. Iyer says that Rodriguez brings disparate worlds together. Rodriguez brings us to the world while Wright removes us utterly from it. And yet, Iyer speaks of Rodriguez's "Catholic remove from the world...." Rodriguez aims "to keep the reader questioning everything, most especially are two simple ideas about America and identity." You see Rodriguez's greatness when he writes about Christopher Hitchens. He does not attack Hitchens. "Instead he recollects a brief meeting with the late polemicist in an elevator, and recalls Hitchens grandstanding attacks on Mother Theresa." Rodriguez had earlier noted the dark night of the soul that Mother Theresa reported late in life that she felt during most of her time in India – – abandoned by God. Rodriguez asks, according to Iyer, "are such public triumph ultimately more useful than a nun's inner failures...." "In the end, Rodriguez seems to favor the deeply flawed women of faith over the champion debater if only because of one central distinction: the readiness to spend her days in 'terrible darkness,' abandoned by her God, yet continuing along her path, determined to question that which she cherishes most." Do you see, in Rodriguez, the man trained in Catholicism, who questions everything, the greatness of the religious tradition? The questions of the religious tradition are just better than the questions that a Charles Wright can ask.

Title: The Unrest in Ferguson, Missouri

Date: 2014-08-19T20:06:00.003-04:00

8/19/2014 – – A friend of mine was talking the other day about the dueling narratives around the events in Ferguson, Missouri. There have been a wide variety of explanations and stories about what happened in the tragic death of 18-year-old Michael Brown. They were the strange reports about the victim being a suspect in a robbery. But then it appeared the arresting officers did not know that. There have even been competing autopsies of Michael Brown's body – – a really macabre development. What cannot be denied is this: shootings, even unjust shootings, even racially provocative shootings, occur in America, unfortunately, from time to time. But they usually do not lead to weeks of rioting. The heart of the matter was stated by David Lieb, a writer for Associated Press, as follows: "in Ferguson, a predominantly black suburb of St. Louis, many residents say they have long been harassed and intimidated by the police department...." Building ties with the community is a long-term effort. An effort that has apparently been neglected in Ferguson. Whatever the facts turn out to be with regard to the death of Michael Brown, no one can deny a real failure of police community relation building.

Title: How to Teach Constitutional Law Now

Date: 2014-08-23T15:54:00.003-04:00

I have been wondering how to do that. In the last 2 years, I began my con law class with an apocryphal story told about Benjamin Franklin. As Franklin was leaving the constitutional convention, a woman asked him, "Mr, Franklin, what manner of government do we have?" "A Republic, Madame," answered Franklin, "if you can keep it."

This story naturally led to treating constitutional law as the way Americans have tried to keep the Republic. Thus, I put on the blackboard before every class, the phrase, "the Tao of keeping the Republic."

But who can believe that the Republic is being kept, today? Is it not obvious that the Republic today is broken, perhaps irretrievably broken?

Different citizens will tell the story of the brokenness of the Republic in different ways, reflecting our ideological differences. The way I see it, the evidence of our brokenness is that in a dangerous world, we Americans simply hate each other. This would come as a surprise, I think, to the framers of the Constitution. Yes, they feared faction. But we are today faction run amok and have been for awhile. You can see it in the fact that, in 1993, not one single Republican voted for President Clinton's first budget. And certainly there are many Republicans would do anything rather than cooperate with President Obama. And I think that Democratic Party partisanship is almost as bad, it just does not have as dramatic a focus.

But others would tell the story differently. For example, Randy Barnett, the great conservative thinker, would say that the system the framers created is not broken at all. It is functioning as designed. As I think Randy would tell the story, the Democratic Party is a threat to the natural rights the Constitution was created to protect. And the resulting paralysis of government is exactly what the framers would have wanted, in such condition.

Where I think Randy makes his mistake, is that the Constitution was the second form of government of the Republic. The Articles of Confederation were jettisoned because the central government proved too weak to protect the country and to promote prosperity. Political paralysis was not their goal and it was not their expectation.

Conservatives who agree with me that the Republic is broken would say that President Obama is acting like a king and that the federal government has become all-powerful. This is why the Republic is broken.

In the view of liberals, the Republican Party, which has political power only because of political gerrymandering that the United States Supreme Court should've prevented, is simply obstructionist and then gains politically from claiming that government cannot act. We are left at the mercy of corporate power and wealth and the result is stagnating wages, a declining standard of living for the middle class and growing inequality.

The job of the students is clear enough. Fix the Republic and if that proves impossible, design a new one.

8/28/2014—Marbury v. Madison (1803) is celebrated as the case that established judicial review in the United States. Actually, there had been instances of judicial review before. I believe there is a plaque in New Bern, N.C. celebrating the first instance of judicial review on the continent, during the colonial period. Marbury is also celebrated for its cleverness. The Supreme Court was weak in a political sense at this time—the 1802 term was cancelled by statute. If the Justices had ordered Jefferson's Administration to do anything, they would probably have been ignored. So, the assertion of judicial review was passive—the Justices held that a statute granting the Court jurisdiction over the case was unconstitutional because the Court could not have that jurisdiction under the Constitution. (The statute need not have been read to grant jurisdiction in the first place). It was impossible for Jefferson to get at this assertion of authority. Something similar may be happening with regard to immigration policy. When Congress is functioning and not paralyzed by partisanship and ideology, as it is now, Presidential power is restricted by positive legislation. Even without legislation, Presidential actions can be challenged in court, as in the steel seizure in the 1950's. But if President Obama announces that he will not deport some class of people, he will be acting passively. It will not be possible to directly confront such an action. To register disapproval of Presidential policy making, Congress can only begin impeachment proceedings. This is clever Presidential maneuvering, but dangerous, for two reasons. First, it ups the ante by encouraging impeachment, which used to be rare, very rare. Second, partisans of Obama, of which I consider myself to be one, should be warning him that Presidential policy making really is unconstitutional. Just because unconstitutional passivity cannot be challenged, does not make it right.

Title: Was Hallowed Secularism Just Ahead of Its Time?

Date: 2014-09-01T15:06:00.000-04:00

9/1/2014—Five years ago, the book *Hallowed Secularism* was published. As part of the roll out in 2009, I set up a panel at the Netroots Nation convention in Pittsburgh on the subject of a "New Progressive Vision of Church and State." The panel did not go all that well. Dr. Denise Cooper–Clark characterized my position in a blog entry on August 20, 2009, as "supernatural atheism." And she wrote that that would not work. Most of the audience probably would have agreed with her. It was an honest disagreement. But I am wondering now how Dr. Cooper-Clarke feels about the upcoming book, *Waking Up*, by Sam Harris, the noted new atheist. You see, CC's discomfort with my position had to do with the notion that people encounter a "mysterious otherness" both personally and historically and that these experiences are valuable, indeed crucial, to creating a life and a civilization. CC characterizes a story from my book as "a woman who had a freak spiritual experience." CC writes of this idea, "Yes, the human brain can go haywire and stimulate the temporal lobe to give an awe–inspiring feeling of oneness. How can this teach you how to live? How is it objective?" But now it is Sam Harris who, in his new book, points to experiences of the feeling of transcendence in a very positive light. According to a pre-review by Frank Bruni in yesterday's *New York Times*, this book is "so entirely of this moment, so keenly in touch with the growing number of Americans were willing to say that they do not find the succor they crave, or a truth that make sense to them, in organized religion." Bruni writes that the subtitle of Harris's book "can be read as a summons to them: 'A Guide to Spirituality without Religion.'" So, what does all this mean? I think it means that our categories are about to be expanded. Harris believes that it is prejudiced and willful to call experiences like this religious and to give them dogmatic content. Maybe he is right about that. I remember an Indian thinker that I quoted in *Hallowed Secularism* saying that transcendent experiences are characterized by reference to the traditions in which we have grown up. But these interpretations are not therefore false. They are a vocabulary. Or, to put it another way, if I experience transcendence as forgiveness of sin, Harris may just have to accept that my experience actually was forgiveness of sin.

Title: Religion in Magic in the Moonlight

Date: 2014-09-06T07:03:00.000-04:00

9/6/2014--Along with Sam Harris rediscovering transcendence, there is now Woody Allen, famously atheistic, rediscovering magic in Magic in the Moonlight. In the movie, a skeptic confronts a psychic, whom he is convinced is faking contact with the spiritual world, but cannot discover any deception. The discovery that there might be more to this world than grim materialism, that there might be a point or telos to existence, fills him with joy. But, in the end, she was a fake after all. But then in the twist, he realizes he is in love with her. And that love fills him with the same hopeless joy. So, from this movie, what insight? Well, very much like Sam Harris, Allen is telling us that there are experiences of transcendence in life. But the grim materialist knows this already. Even the skeptic in Magic already knew that music was sublime. But that experience did not help him. Why not? Same problem as for Harris. Harris needs to reclaim transcendence from religion. Why? So that no one believes the rest of the religious story because of these experiences. For Allen, love must be separated from God in the same way. The skeptic finds himself praying to God and the nature of that prayer is so alienating that God cannot exist and the psychic must be a fake. But this is a non-problem. It is the constant issue of bad religion. Harris is reclaiming transcendence from a God who is a being doing tricks with the natural world. Allen is reclaiming magic from the very same God. The skeptic cannot ask God to save his aunt. Well, that makes sense. That would be the same God who caused the accident in the first place. The question is, what does transcendence or magic mean? For Harris, these experiences are like drugs or exercise. Or meditation, which he also removes from its religious origins. But all of this realm is part of a spiritual practice that is supposed to, or if you prefer can, give humans insight into the meaning of life. Into the meaning of reality. Here it is in a nutshell. Certain ways of life are better than others. Not just better in some opinion, but objectively better. Those ways of life that empty us of ego and turn us toward nature and other humans in an open and loving way are better. This will in fact lead us to a way of life fairly characterized as religious. It just might not be part of any of the existing religions.

Title: National Motto Fails in Allegheny County

Date: 2014-09-11T05:15:00.003-04:00

9/11/2014—Today is the anniversary of the attacks of 9/11/2001. I remember thinking at the time that the attacks would not change things that much. But in fact they have in two ways at least. First, we are still living with the fallout from the invasions that followed, in Iraq and in Afghanistan. Second, the American people are still going through a kind of anti-religion reaction—remember, the New Atheists emphasized religious wars as well as anti-scientific religious thought. Isis greatly reinforces this tendency. On the fallout front, President Obama gave a talk to the nation I could not bear to watch. I still cannot figure out why Isis is our problem. The group is not attacking America itself or even American installations and institutions. Iraq has plenty of military resources to defend itself—the issue is political. Sunnis have to feel they have a future there. We can't intervene in Syria because we don't want anybody there to win the civil war (anyone who has a remote chance to do so). On the anti-religion front, Allegheny County Council this week voted down a proposal to post the national motto, In God We Trust, in the courthouse. The typical themes emerged. Take a look at Aaron Auperlee's story in the Tribune Review. The liberal rabbi says religion is best kept private in our culture—but certainly it was not so in the Torah. And anyway, liberal Jews are always trotting out Jewish teachings on social welfare issues. The Catholic Bishop says God brings people together. But these kinds of votes just emphasize our differences, however they go. The President of the Islamic Center says no one should be offended—if they don't believe, they don't believe. The Buddhist says we are inner. The Hindu says God can be a dog—(and I am all for In Dog We Trust). The story mentions the 20% of Americans who do not identify with any organized religion, but not that many of them say they believe in God. My question in the story is, what is the point of such a posting? Is it political—God as a wedge issue? Usually. Is it cultural—to keep God in the game? But it doesn't. I'm waiting to hear my answer—to remind us that nihilism is not the only possibility. We believe that existence has meaning. God is much more than religion. Of course, that would fall on deaf ears today. But words can also be events.

Title: Chasing Moderates in Syria

Date: 2014-09-14T05:41:00.003-04:00

9/14/2014—How is President Obama like Holden McNeil in the 1997 movie, Chasing Amy? Well let me ask the question the way Banky Edwards asks it in the movie: Who is going to win the Civil War in Syria? The current government of Bashar al-Assad, ISIS, some just as bad radical group or the militarily effective, political relevant Syrian moderates? Answer: one of the first three, because the fourth is a figment of your imagination. Why is America doing anything in Syria? Why not just help the Iraq government chase ISIS back to Syria? Actually, that is probably President Obama's preference. But Washington is panicked. I heard a Republican Senator on NPR I think was Marco Rubio, after President Obama's talk to the nation last week. He was reasonable and civil and constructive. ISIS brings out the best in our politicians perhaps because it reminds them that the other Party is not the enemy. But the Senator said one thing I disagreed with. If only the President had armed the moderates two years ago, or last year, he complained. But if we had, experience suggests that all those arms would now be in the hands of ISIS. Just to be clear. America doesn't have an option in the Syrian Civil War. ISIS, at least in Syria, is not a threat to America or any American interest. There are a lot of bad people in the world who do terrible things, including killing Americans. It's not a good idea to form your foreign policy around going after them.

Title: How to Think

Date: 2014-09-18T17:59:00.002-04:00

9/18/2014--It may seem surprising, and even strange, but the philosopher Martin Heidegger meditates a great deal on the question, what is thinking? Heidegger even has a very well-known work entitled, in the German, Was heisst denken? I have recently been studying the book that is generally regarded as Heidegger's second masterpiece, after *Being and Time*, *Contributions to Philosophy*. In that work, Heidegger approaches thinking as having to proceed from out of what he calls the "grounding disposition" (*grundstimmung*) of an age. Heidegger does not mean that the thinker thinks away from the grounding disposition, but rather that the grounding disposition is the starting point for thinking. A grounding disposition is not a personal feeling. It is a mood but there is nothing personal or subjective about it. Or, I guess I should say that it is personal in the sense that each one of us encounters it, but it is objective in the sense that we encounter it and cannot change it. Undoubtedly, Heidegger would dismiss what I would describe as the grounding disposition of this time as merely a worldview. But is it not possible that whereas the genuine thinker, like Heidegger, can intuit and interpret the grounding disposition, the rest of us hacks can still intuit and interpret something of the same disposition. When I look around at what people write and think today, they seem to me oblivious to the kind of questions that Heidegger believes must be addressed first, or maybe must be addressed continuously. These are questions like, what time is it? and where are we now? Heidegger even suggests at one point that I know of that the grounding disposition of the time may be how we encounter the language of God for us—that is, what God is saying now. Well, what is the grounding disposition of our time? It seems to be one of foreboding. It seems to be one of anxiety and hopelessness and restlessness. It seems to be a proper time to ask, who are we really?

Title: What President Obama Should Have Said

Date: 2014-09-24T19:51:00.001-04:00

9/24/2014—It is obvious that President Obama's heart is not in these attacks against ISIS, whether in Iraq or Syria. He did not want to get involved, but was forced to do something by panicky political leaders in the United States. The truth is that ISIS is not a threat against the US or our vital interests. Mostly, ISIS is killing fellow Muslims and non-Muslim citizens in the area. Obama should have said that the proper model for what is happening now in the Middle East is the Wars of Religion in Europe from roughly 1524-1648. When those wars of Catholics and Protestants ended, Europe was exhausted and specifically tired of religion. ISIS has moved Islam to the stage of internal homicidal campaign. Muslim leaders are waking up to the danger—not the military danger of ISIS, but the danger that ISIS might alienate the world, including the Islamic world, from Islam.

Title: How to Pray

Date: 2014-09-27T05:20:00.002-04:00

9/27/2014—We are in the midst of the Jewish Days of Awe. The question arises at this time, how does one pray? And, in particular, how does a hallowed secularist pray? In the meditation entitled Contributions to Philosophy, which Martin Heidegger composed around 1934-35, but did not publish until years later, there is language that straddles the usual boundaries of philosophy and poetry and perhaps theology. In the section we are reading now, Heidegger is describing preparation for a new beginning for humanity away from the technologized and aggressive present. He writes that only in the “great stillness” does the “lordship of the ultimate god open beings and configure[] them.” “Therefore, the great stillness must first come over the world... . This stillness arises only out of silence. And this bringing into silence arises only out of restraint.” There is more and I will return to it. But here certainly Heidegger is teaching us how to approach the holy. The scene in Jerusalem when Yom Kippur begins in Kol Nidre is like this—I am told there is silence as the worshippers dressed in white walk toward the synagogues. So, here at least is a beginning for how to pray. And it is also an antidote to the everyday business in which we are generally enmeshed. When and where and how do secularists do this? How do secularists find the approach to prayer?

Title: The Most Pressing Issue of Our Time: The Relationship between Science and Religion

Date: 2014-09-28T15:29:00.002-04:00

Barash is an evolutionary biologist and professor of psychology at the University of Washington. He was writing today about "The Talk." Barash uses this term to describe a lecture he gives now to students about the relationship between science and religion.

There is a sense in which this relationship is the key to understanding our time. All of my doubts about religion stem from the unbelievability of any reality outside the norms of the laws that science describes. I do not mean the existence of God exactly. For who knows what God is? And even Barash admits that the existence of God is not something science can tell us anything about.

No, I mean something like the resurrection of Jesus. Most miracles do not matter that much, but this one does. Something extraordinary obviously happened after Jesus's death. His followers, pious Jews, were associating with Gentiles and eating nonkosher food just 20 years after his death. That simply cannot be explained.

But, on the other hand, the body does not reanimate. I do not know how else to put it.

A lot of work has been done at this intersection. Ian Barbour spent a lifetime describing the possible relationships between science and religion. And, as Barash begins his column, Stephen Jay Gould described science and religion as compatible, "nonoverlapping magisteria". Or NOMA for short.

So, here is what Barash tells his students. First, God could exist and could use evolution to serve his purposes. However, the magisteria are not nonoverlapping. [I should add here that in terms of the Bible, the Old Testament in particular, the notion that there exists a realm in which God is irrelevant is ridiculous. So, obviously, it is not possible for biblical religion to have nothing to say about the nature the universe. That would not be biblical religion. So the two realms never could be separate]

From Barash's point of view, science has demolished "two previously potent pillars of religious faith and undermined belief in an omnipotent and Omni benevolent God." One demolition is that evolution can get to the complexity of life without a supernatural creator. Evolution can accomplish all the complexity we see within entirely natural boundaries. [This is certainly true, but it still does not mean that the process is "undirected". Barash is simply assuming a lack of telos in reality. How does he know the process is undirected?]

The second demolition is that human beings are not distinct. They are, we are, "perfectly good animals, natural as can be an indistinguishable from the rest of the living world...." [What kind of religion required otherwise? Anyway, is it not suggestive of telos that we evolved? Why exactly does the universe need our sense of right and wrong and of beauty and of order and of kindness and of non-interested love?]

But the key problem that Barash wants to point to his suffering. All of reality suffers. Evolutionary theory is filled with violence and parasites. Why did a good God work this way? The more we see, the more convinced we must be "that living things, including human beings, are produced by a natural, totally amoral process, with no indication of a benevolent, controlling creator." [This one is certainly profound, but I do not think that science today has added anything to it. People have been aware since we were aware that we were eating meat that we kill to live and so does nature.]

Anyway, Barash's main point is that all of this is religion's problem, not his. The Talk makes it clear that science is solid and religion has the problem. [More to come]

10/3/2014—In the context of political events in the Arab world, it seems that Americans prefer secularism to democracy. These countries are largely pious and their population may prefer to be governed within a framework of religious law. Americans on the right oppose this, because they are suspicious of Islam, even though they want more religious influence in American public life. Americans on the left oppose this because they don't like religion, even if religion is the choice of the people. You saw this in the ambiguous American response to the military coup in Egypt. Usually the US would vigorously oppose the deposition of a democratically elected government. While we did not support the army in Egypt, we did not signal strong opposition either. Of course democratically elected governments can become tyrannical. But, again, Americans are beginning to see imposition of Islamic forms of life as tyrannical per se. Such forms of life may be destructive or violent—such as cutting off hands for theft—but they are not undemocratic if that is what the majority wants and there are continuing free elections to change policies. Robert Worth is a good example of American opposition to democracy when practiced by religious parties. He writes in the New York Review of Books about Arab Despotism. One example he uses is Tunisia, where an Islamic Party—the Renaissance Party—is practicing normal politics, but has not renounced its desire for an Islamic State with democratic practices. Worth is critical of this stance. But why? The Koch brothers are dedicated to bring about right-wing change through politics. Why not religious believers? Worth also writes that “At some point, the principle of popular sovereignty is bound to collide with the belief in divine guidance.” This is either false—Abraham Lincoln believed in both—or true of everyone in the sense that we all believe in right and wrong and that a majority might choose an evil that would have to be opposed even by force. Germany did. The question is always whether the religious group is really committed to democracy. Protestants for a long time suspected that Catholics were not committed to democracy. But that suspicion has now receded. The same could one day be true of Islamic Parties.

Title: The Day after Yom Kippur

Date: 2014-10-05T11:29:00.001-04:00

10/5/2014—Yesterday was Yom Kippur. I keenly feel the absence of a day like that on my now secular calendar. Yom Kippur reminds us of just how far we fall from perfection – – and just how unacceptable that is. In secularism, one day is like another and there is nothing particularly dramatic about anything. Secularism lacks any great narrative. When you grow up in Judaism, you hear how Abraham was called by God out of the land of his fathers to go to a land he did not know. In Christianity, you hear how God sent his only son so that human beings could be saved. These are great themes, whatever you think of their supernatural aspects. A great deal is at stake. In secularism, in contrast, nothing is really at stake. As for sin, the secularist thinks that he or she is okay. But are not okay. We lie, we cheat, we disappoint. We don't appreciate and love those around us. We don't sacrifice even our minor interests for the needs of others. And we certainly do not meet the world in sacrificial love, as Jesus taught and lived. I really do not know how one can live a life of depth in secularism. I hear all the time that a person does not need to believe in God to be good. It might be more accurate to say that human beings are not good, whether they believe in God or not.

Title: The War Over Islam

Date: 2014-10-09T05:21:00.003-04:00

10/9/2014—Nicholas Kristof put in his two cents today in the New York Times concerning the Bill Maher show on HBO, which I haven't seen, in which Maher and Sam Harris denounced Islam as dangerous and violent—but untouchable by politically correct liberals—while Ben Affleck called their comments racist. Kristof says he sided with Affleck and reminded his readers of the diversity of Islam. The fanatics are Muslim, but so are their “decent, peaceful” opponents. I have written repeatedly on this blog that the current round of wars in the Islamic world today is reminiscent of the Wars of Religion in Europe in the 16th and 17th century that ended in 1648, with public exhaustion with Christianity leading to rapid secularization. I have predicted the same likely pattern in the Islamic world, eventually. I did not know until now that the great Protestant theologian, Wolfhart Pannenberg, who died just over a month ago, located the secularization of modern European society at precisely this point for precisely this reason. I read this in a short book by him, now apparently out of print, *Christianity in a Secularized World* (1988). You could say all the same things about Christianity in 1648 that Kristof says today about Islam—that the religion was not violent but that violent men used religion to gain power and feed their ideological and psychological needs. It was true then about Christianity, which also had its long history of relative tolerance and social unity, just as Islam has had. Pannenberg's point is that when religion becomes a threat to social peace, people will turn against it out of pressing need, will cut religion's ties to the political world where it does its damage, and will relegate it to the world of private life. Whatever its merits, Islam is now a threat to social peace and Muslims are likely to come to the same conclusion about religion that Christians in Europe did.

Title: Why Judaism is Dying

Date: 2014-10-12T05:41:00.001-04:00

10/12/2014—On Friday night I spoke to a youngish couple—early thirties. They are vaguely Jewish. She had been in synagogue sporadically in recent years, but had not had a Bat Mitzvah. He had not been in synagogue in years but had had a Bar Mitzvah. They both considered themselves Jewish if anything. They were in a reform synagogue for the Kol Nidre ceremony that marks the beginning of Yom Kippur, the Day of Atonement. She found some elements of the service quite beautiful. Nothing seemed to have moved him aesthetically. They both knew perfectly well from childhood what the service was about—forgiveness of sin. She spoke of the spiritual discipline of the holiday, with its fast. She did not feel the need to seek forgiveness—the concept was foreign. I'm not sure about him, but certainly he said nothing about it. I did not press. Maybe I will next time. What they really remembered, negatively, was the sermon. He quoted parts of it almost word for word. The Jewish people must now become a warrior people and all Jews must support Israel. He remembered the feeling in the synagogue of support for these words. Those words, with their almost total disregard for the yearnings of the Palestinian people, angered him. He almost stood up and left in the middle of the sermon. I'm not suggesting here that Judaism is dying because of the issue of Israel. Not at all. That will change, eventually. Peace can come, after all. No, the reality is deeper than that. These two people have hopes and fears like everyone else. This service, the most important one of the year, did not touch those hopes and fears. The service did not connect with them existentially: how we live, how we die, what our lives are about, what we can hope for... . This entry is not blaming anybody. The service could presumably engage them if enough work were done to translate its meanings to where they are. They are young but they have heard of death. They are young, but they have wondered what life is about. But this would require a great deal from both sides and no one is working to bridge this gap. Whatever is happening here is large and goes beyond the talents and character of individuals. But if this couple—and I—are cut off from Judaism, then where will we turn ponder the meaning of life? Where will we turn to keep ourselves morally upright? Where will we turn for a sense of wonder and possibility? After all, there is no hallowed secularism—yet. Where would that come from?

Title: Great News from the Church

Date: 2014-10-15T05:43:00.002-04:00

10/15/2014—The news from the synod convening in Rome is very good. I read in media reports that the Catholic Church will emphasize the good that same sex relationships and heterosexual cohabitation can bring to human beings. The emphasis will not be on these sins in particular in matters of eligibility for the sacraments. This could also bring divorced persons back within the Church. Theologically, this always made sense. If we are all enemies of God, as Karl Barth tells us, why would these particular sins disqualify sinners from the sacrament, seemingly above all others? It was always to be suspected that the pressures on this area came from outside the Gospel. For those of us working diligently to bring the secular world into contact with the Gospel—as if that work depends on one's own efforts—this movement, however mildly it plays out in the near future, does more than grant a measure of relief to lonely human beings who seek the comfort of Christ. It also sets out a welcome mat to those suspicious of the Gospel. It says, the Gospel does not lead to denial of your human condition.

Title: Can Materialism Be True?

Date: 2014-10-18T05:48:00.002-04:00

10/18/2014—We are used to asking this question about God and religion, for a variety of reasons. But we never ask it about the only alternative we know to some form of teleology—materialism. I am not speaking of the spiritualized forms of materialism that are open to religion but insist always on a physical link underlying all human experience. That kind of spiritualism is manifest in Robert John Russell, the physicist/theologian, who writes of science as a “constraint” on theology. No, I mean the hard kind of materialism that considers all form of spiritual life as a kind of unintended spillover from physical reality. This is the sort of account that a Steven Weinberg gives. Can that account of materialism be true? Thomas Nagel has been casting doubt on the thoroughness of a purely physical account of reality, but I also don’t mean here a technical question about whether materialism works. Instead, I mean, can it be true when it is bad for us? The hard material account goes like this—no one knows why the Big Bang happened. But it did. It was a kind of inevitable accident. Same thing for all that happened next. Life was also a kind of inevitable accident with all those amino acids lying around. Everything after that was random selection and the process went up and down and many species changed not at all or became extinct. Life almost ended at several points on Earth and presumably did so end in countless other planets—maybe including Mars. Human life could end here any time, from an asteroid or Ebola or wars spurred by climate change. Eventually it will, when the sun explodes or later when the universe speeds so far apart that everything freezes. There is no significance to any of this in this account. Humans happened to happen. Now this account is wildly different from the sense that each of us has about our own lives. We live in a drama in which we star and which is enormously significant. And we feel that way about humanity itself and its self-consciousness. This form of life is nature’s highest achievement. Even materialists feel that way—they believe that it is important that humans understand the truth of our situation, even though by their own account, it is not important at all what humans believe because truth has no significance. The material account is bad for humans because it undermines the meaning that all humans seek. Why would evolution produce a being able to learn the material truth of things, but unable to live with the knowledge produced? If materialism is true, we are maladapted for it. Meaning seeking is also a product of evolution, but has no value now. It only gets in the way, according to materialism. Was meaning seeking ever adaptive? I’m inclined to believe that the truth of things cannot be bad for us to know. If it is bad for us, as materialism is, then perhaps it is not true.

Title: The Panic Over Ebola

Date: 2014-10-22T04:59:00.004-04:00

10/22/2014—For awhile, there seemed to be a growing panic in America about Ebola, which now seems to be subsiding. On Monday, David Brooks wrote a column about it in the New York Times, speculating about what contributed to the out-of-proportion response. Brooks pointed to social isolation—Americans mostly don't interact with people unlike themselves—which leads to isolation from elites and decision-makers. (This suggests that poorer, less educated people are the ones who panic, which is probably not true). Then there is anti-globalization. And instant news. And a culture that denies death, rather than dealing with it. The one thing he did not mention is the decline of religion. I don't mean people going to church or not. I mean the absence of a vibrant narrative of fulfilled life. I'm sure people panic at death even if they genuinely expect to go to heaven, so I don't mean that. This leads to the absence of national self-confidence. This is the kind of confidence that goes with a national sense of the place of the nation in a larger scheme of things. (This would not have to be a traditional religious narrative, but in America it has been that in the past) To me, the darkness of this time has to do with the death of meaning. This is the sense that there is no reliable core of things—of the good and the true and the beautiful—that is meaningful inherently and apart from people. There is a reason this is dismissively referred to as the god's eye view. We don't have it.

Title: In Our Dark Time

Date: 2014-10-25T04:20:00.002-04:00

10/25/2014--On Friday, October 10, 2014, the New York Times reported that Republican Party strategists had hit upon an overall theme for the fall Congressional elections: that theme would be, All is Dismal. The newspaper story reported that "Darkness is enveloping American politics." Threats are everywhere—the Ebola virus, Muslim militants, porous borders, an incompetent Secret Service—and the government is unable to protect us. As a strategy for winning elections, this Republican Party approach might be effective. After all, a Democratic President is in charge. But such a theme cannot be easily cabined to just one election. The article also points out that "A sense that the country is dangerously off track is an increasingly popular topic of conversation in conservative media." And, I would add, not just in conservative media. But if that is the case, an election is a laughable response to such a momentous happening and the Republican Party is obviously an accomplice in what is wrong. As Robert Gibbs, a former spokesperson for President Obama puts it in the article, "It will be interesting to see...if they can convince people that they aren't part of that dysfunction." Undoubtedly, the Republicans are pointing to a current national mood. But I would put all this differently. Things are falling apart. That is where we should start. Two more stories: The Republicans, assuming they will win the off-year elections by controlling both Houses of Congress, gave out details on some policies they will adopt. There was nothing much there. So, aside from the fact that President Obama will veto serious changes anyway, the Republicans have nothing to propose. (And what would the Democrats propose—higher taxes on the rich? More spending on roads?) Then, of course, there is the school shooting in Washington state. A legal gun, so background checks would not have stopped this one. (But they might stop the next one). Why do these things happen? I can tell you simply. If you believe in a senseless world, senseless things will tend to happen. This will be true both because worse things will happen and because the things that do happen will not make sense. If you live in a world without hope, then when bad things happen, you will be paralyzed. Does this sound like I'm saying, so go back to church? But lots of people go to church now. We have to ask the question seriously: what is reality all about? And if the answer really is, it is all a big accident and has no meaning and humanity is alone and must make its own meaning, then we will just have to live with all this. If it's the truth, it's the truth. But, if it is not necessarily the truth, if somehow reality has a direction, then we have to hold on to that and stop calling it irrational. Just because religion is over-literal in its depictions of God and spirits, doesn't mean it is all wrong.

Title: Pennsylvania Doings

Date: 2014-10-31T05:46:00.000-04:00

10/31/2014—I try to keep my writings on secularism and religion separate from my purely state law activities. But this week, with the resignation of Justice Seamus McCaffery from the State Supreme Court, those activities have overwhelmed my time. I will try to get back to Hallowed Secularism this weekend. Meanwhile happy Halloween, one religious holiday secularists really enjoy. And one small communal ritual left in America. Those wanting to know about Pennsylvania's problems can find my op-ed here.

Title: Today's Papers

Date: 2014-11-02T08:59:00.002-05:00

11/2/2014—Lots of news regarding religion, law and politics in the Sunday newspapers—and I have not yet gotten to the NY Times. The Tribune Review has a story about the fears of some religious leaders about government interference with religion. Since the First Amendment is alive and well, there is not much to this story. Government may interfere, or try to, with what churches do—that is what the ministerial exception is about (the Hosanna-Tabor case)—but government can do nothing about what preachers say about homosexuality. The notion of hate speech laws as a threat to religion is fanciful. The Post-Gazette has three stories of interest. There is a review by Rebecca Denova of Karen Armstrong's new book, *Fields of Blood*, which argues that greed and power drive wars in history, not religious dogma. Religion is used to drive emotion, however. Many years ago, the Nazi political theorist, Carl Schmitt, made the same point—the “us-them” distinction brings all differences along with it. Then there is the op-ed by Jack Kelly, which the PG is not allowing me to access, but you can find it, in which he castigates Democrats for race baiting. The odd thing about this column is that it does not go after any Democratic Party candidates, but instead criticized activists in Ferguson, Missouri, for their insistence on race as the central factor in the shooting of Michael Brown. But I'm sure most of the people there who say this honestly feel that way. I wonder where Jack Kelly was when President Nixon employed his new south strategy or the elder President Bush ran his ad campaign linking Governor Dukakis to a black murderer. Still, if there is race baiting for political purposes, it is deplorable. I just don't think Kelly has identified any. Finally, there is the election itself, pretty certain now to return the Senate to Republican hands. This will prove a mixed blessing for Republicans. With both houses of Congress, they will be expected to pass legislation. Can they? Will the voters like what they do? Will President Obama's vetoes both allow him to be relevant and remind voters that they mostly agree with him? Will the next two years allow the Democrats to run as the out Party in 2016?

Title: An Election of Anxiety

Date: 2014-11-06T01:28:00.000-05:00

11/6/2014—The results of Tuesday's mid-term election were surprising. Who expected Democrats to do that badly and who could explain why a moderate Republican governor in Pennsylvania was trounced? I heard an analysis on NPR on Wednesday morning that Republicans had succeeded in turning voters' attention away from the economy, where there had been improvement, to issues of competence in government, such as ISIS and Ebola. Republicans would dispute the first part of this analysis. There was no need to turn voters away from the economy because, as President Obama's poll numbers show, he does not get credit for a recovery that has left out most people. But there is something to the issue of competence, though that word is too meek. Americans today fear that bad things are happening generally. The inability of the government to protect us, from the Secret Service failures, to Ebola, to dark forces in the Middle East beheading Americans, feeds these fears. The world is a frightening place. In this analysis, the election was decided a few weeks ago, in the midst of the Ebola panic. I am here challenging the liberal refrain that last minute Republican money decided things. That money just made matters worse. In this analysis, President Obama really did deserve the poor showing he caused. The President's policies are actually quite reasonable and have been effective. But he was not at all reassuring during the last few months. In a dangerous world, he did not seem to know what was going on. That, rather than Republican policies, seems to me to be the takeaway from this election.

Title: How Destructive Is Capitalism?

Date: 2014-11-09T08:05:00.001-05:00

11/9/2014—It is of course absurd to imagine a non-capitalist economy. After all, what is the alternative? China? Russia? Those are not economic systems at all. They are simply systems of occasional political interference with market forms in the name of the self-interest of powerful elites. So, it is frustrating when the philosopher Martin Heidegger criticizes our prevailing way of life in favor of something else. But it is never clear what the something else is or could be. This is not a criticism of Heidegger. He is not a social mechanic. Nevertheless, it is important to remember just how destructive capitalism is. For only in that way will any kind of change ever take place. By destructive, I am not referring to the recent tendency of the world economy to bubbles and to serious recessions. Capitalism is not even producing the results that it promises for poor people and for the world in general. Just ask Europe. But I suppose those problems can be addressed. I am referring to the way in which capitalism makes us complicit in our own destruction – something Lenin would have recognized in an instant. Here is an example. Alaska is a red State. It elected a Republican senator last Tuesday. But I heard a report on NPR that I do not believe reflects any bias by the network. The story interviewed water resource and utility officials. They deal with the effects of global warming everyday. Those effects in Alaska are very clear and very destructive. The permafrost is melting. No one denies what is happening. No one denies that humans are causing it. These officials are in no sense deniers of global warming. Yet at the same time, because Alaska is so dependent economically on fossil fuel extraction, there is absolutely no support for serious efforts to reduce or halt global warming by holding down greenhouse gas emissions. So Alaska is spending time and money dealing with the consequences. Not only is this a trap, everyone caught in it knows that it is a trap. Everyone knows that global warming is harming Alaska. But market realities are such that absolutely nothing can be done about it. This is the consequence of capitalism. And it is more irrational and more dictatorial than any religion has ever been.

Title: The Climate Deal with China

Date: 2014-11-13T05:11:00.004-05:00

11/13/2014—Well, of course, it's not a deal in my legal sense—not a treaty and not even aiming at immediate steps within the authority of the two leaders who signed it. And it is not a substitute for rejecting the Keystone pipeline, which Bill McKibben (whose comments I read this morning) seems to feel with be the President's implicit message when he permits that project to go forward, either on his own or by not vetoing a statute approving the project. But it is very good news all the same. The United States and China are the leading emitters of greenhouse gases, China the leading developing nation, the United States the least likely to actually act on global warming. So, the seriousness of the action is helpful. Plus, this takes away the argument that we should not act while others refuse to do so. But, as McKibben also points out, our efforts pale compared to, for example, Germany, which already gets 31% of its power from renewable sources. The only sensible action for me is to finally switch power sources myself, which I have not done yet and will do this week. All the same, the effort to derail the pipeline makes no sense to me. The economy works as a system. You don't obstruct a project when the price system says to go forward with it. You change the price system. There are many ways to do that—a tax on carbon, cap and trade, even reducing demand for carbon energy by public persuasion and economic forecasts. The one thing government should not do is command the market not to make rational decisions. McKibben, a great man whom I adore, seems to feel that if the pipeline is built, it will be used. But, in the context of the sale of a product, that is not so. The oil will be shipped if it is economical to use it. But, if it economical to use it, the oil will likely be used whether the pipeline is built or not. That is not the way to change an economy. It is like saying, don't build roads because of what will be transported on them. No. You regulate those products, not the way they are transported.

Title: A Beautiful Movie

Date: 2014-11-16T05:29:00.002-05:00

11/16/2014—I finally had a chance to see *The Fault in Our Stars*. What a touching, wonderful movie. (And has anybody noticed how much Ansel Elgort's Augustus Waters resembles Jeff Bridges in the 1984 movie *Starman*?)

But I was disappointed that the spiritual/religious theme was not brought to the fore in the movie, when it apparently was in the book. What is life about in the movie? Hazel Grace Lancaster is one tough cookie, and she decides to live the life she has been given. In one of the movie's two climactic moments, she tells Augustus, now that he knows he is dying of cancer soon and is disappointed that he will never make his mark in the world, that he has made his mark. He wanted to be loved and admired and he is, by her and by others. Even though that will be ephemeral, we already know her feeling that all of life is ephemeral—the stars go out too, it is enough. And, Augustus does get this, as his eulogy of Hazel makes clear: we want to be remembered, but Hazel knows the truth—she wanted to be loved deeply by one.

The other climactic scene is with her parents. She is relieved to know that when she dies (not if), they will go on living well. She has no doubt that they love her. She is not disappointed that her death will not be mourned forever. She has the generosity of spirit to want them to live—in a way, for her, who has been deprived of the chance.

Now this is fine as far as it goes, and it contrasts as realism compared to the stylized Christianity of the early scenes in *The Heart of Jesus Church* and to the not-quite-right-anymore version of the 23rd Psalm we hear in the background at Augustus Waters' funeral. In fact, the limits of the Christian story, or any religion's story, among America's young are apparent in this movie. The secularization thesis is alive and well.

The book is different, I hear. (I haven't read it). The book is open to the deep teleology that I wrote about last June—you could look it up on this very blog. Hazel's Dad talks about the universe wanting to be noticed by us.

But the hidden point of the movie's religiosity is not teleology but eternity. I thought it was too subtle to be caught, but maybe I am just dense. The author, Peter Van Houten, played as well as a badly written part can be, by Willem Dafoe, answers the pair of dying lovers wanting to know how the characters in his cancer themed novel do after the book ends, by telling them in essence that the question is stupid. It is a novel. But then he adds a reference to what the author John Green has elsewhere referred to as "Cantor's diagonal argument, [that] the infinite set of real numbers is bigger than the infinite set of natural numbers." Some infinities are smaller than other infinities. Hazel and Gus had a little infinity, as she says in her own eulogy for Gus.

Now, what is this little infinity that they had but the Kingdom of God? When Jesus says that the Kingdom of God is in the midst of you (usually translated in you), he is not referring to himself, but to the presence of the Kingdom right here, and right now. Stop looking for something special—the Kingdom is here in a moment or nowhere.

Grace and Augustus got to taste the Kingdom of God. Therefore their lives are not a tragedy. The tragedy is to die without having tasted the Kingdom of God. The Kingdom is a small infinity. Why can't the churches hear the Gospel when it is offered?

Title: Not Serving the Interests of the Country

Date: 2014-11-20T04:57:00.000-05:00

11/20/2014—As a supporter of President Obama, I'm sorry to see him going down the road of today's Executive Order on immigration. I'm going to say that on KQV in a few hours and I wanted to say it here first. The Republicans won the last election. Why not let them govern? They would pass a bill. Maybe they would have compromised, or maybe the President would have vetoed it. Either way, wouldn't that have been better? We've already waited a long time. Why not a few more months? Could it be that it is now the President's team that does not want compromise on this or other issues? Again, maybe it would not have happened. But the Republicans now control. They have to produce. It would have been better for the country if they had had the chance.

Title: The Secular Death Penalty

Date: 2014-11-21T03:22:00.001-05:00

11/21/2014—Yesterday, I participated in a debate with the very able proponent of the death penalty, William Otis, who teaches at Georgetown Law School and has had an illustrious career in government. I learned a great deal.

I spoke first and presented the understanding of a religious death penalty—how it prescribes a penalty that is not final from its perspective and which allows the condemned prisoner a second chance to inherit eternal life, or the Kingdom of God, or whatever its understanding of ultimacy is. I contrasted this with our current death penalty practice, which I called brutal, bureaucratic and hate-filled.

Professor Otis spoke next and reminded the audience of just what the death penalty deals with—a series of chilling and violent acts by extremely dangerous men, who were obviously beyond any kind of rehabilitation. He did not seek to justify the system of the death penalty, only the justification of the death penalty for such actions and such men.

Here is what I learned. Justice in the abstract is not at the heart of the proponent's interest, for a simple death by lethal injection is not what men such as this deserve. They deserve to be tortured to death, to experience the kind of pain that they inflicted.

My point, which was not well expressed, was that since, for whatever reason, we are not going to meet out justice, how do we decide which lesser penalty to inflict? Why does death recommend itself to the proponent, if justice does not demand it?

Now you could answer that death is closer to death by torture, which is what they deserve, than is a sentence of life imprisonment without parole. But there are a number of answers to that. Yes, but it is also closer to something about death by torture that even the proponent shies away from. Yes, but it is not necessary. Both penalties do the same thing: the prisoner is in jail until he dies. Yes, but although the prisoner will have some joy in life, his suffering in prison will also go on for his whole life, thus increasing the penalty.

Professor Otis implied two other reasons to choose death over life, even when justice does not uniquely demand death. One is that the prisoner's existence mocks us. (One prisoner did that expressly by trying to contact the victim's family). Second, the prisoner cannot be redeemed.

Here we see the difference between a religious death penalty and a secular one. The religious death penalty seeks to improve the ultimate existence of the wrongdoer. Punishment is not the enemy of the prisoner and he is not the enemy of the community—the prisoner is like the rest of us, only more so. It is the heart of the religious death penalty that the prisoner can be redeemed. He must be punished, but redemption is always the goal. In the Talmud, the prisoner prays, "may my death be expiation for my sin."

So, in the end, the secular death penalty is a garbage disposal while the religious death penalty is not. I cannot prove that this garbage disposal is bad for society, but I believe it to be. And I am not certain that the proponents of the death penalty that Professor Otis invoked, in particular Abraham Lincoln, shared his conception of the death penalty. I am pretty certain that Lincoln did not view the men he sentenced to death as beyond redemption.

Title: Pope Tells Haggard Europe that it is in Need of Cultural Renewal

Date: 2014-11-27T09:31:00.004-05:00

11/26/2014—It goes without saying that secularists don't need religion. That is the constant refrain. But it is also true that the most secular region on earth—western and northern Europe—is suffering severe cultural malaise. And the next most rapidly secularizing society—America—is also. Does the sense of decline have any theological significance? Maybe it is just that these societies are aging. That would not necessarily be an independent variable, since declining birth rates can be a sign of cultural despair. So it could be that aging cultures decline and declining cultures do not have high birth rates. But America has a large immigrant population and there is still this sense of decline. Of course, it is also true that America has been very much on top for 60 years and so relative decline is inevitable. All of that is true—and yet... . If the universe is an accident, maybe it is difficult to get too worked up over anything. Maybe secularism does have a problem that the Pope was speaking to.

Title: More Reasons the Democratic Party Coalition Collapsed

Date: 2014-11-30T10:20:00.003-05:00

11/30/2014—I was listening to a radio interview of Bill Pricener on Christian radio yesterday. Bill is the Director of the Allegheny branch of the YMCA. The branch is right on my street and I use it almost every day. It became clear that Bill and the interviewer are more concerned about poverty and hunger in America, especially among young people, than just about anyone I have ever known. Bill spends his life attempting to alleviate hunger and poverty. This is not, for Bill, any kind of antigovernment crusade. The YMCA is happy to take federal government dollars in order to assist it in providing food for kids. Bill is particularly concerned to make sure the kids have food during the day so that they can learn. Bill and the interviewer were very critical of a society like ours in which people still go hungry. Yet, not only do I doubt that participants in the interview regularly vote Democratic, we know for a fact that most of the listeners to the interview do not. They vote Republican. We also know that generally speaking people like Bill, and people like the listeners to Christian radio, who speak in gospel terminology--they talk about mission, God, purpose, and so forth--are not welcome among many progressives. These progressives are made uncomfortable by the language of faith and by the fact of faith. So we have this strange situation in which people who share a deep concern for social justice find themselves on opposite sides of a political divide that does not reflect all of their concerns. This weakens the possibility of creating a coalition in America in which issues like hunger are effectively addressed. There would be huge support from progressives and many people of faith for a massive expansion of government programs that provide food in the schools, including taxes to pay for it. But it cannot happen because of a cultural divide. I mostly fault progressives here because we indulge our distaste for religious life though such religious commitments are often irrelevant to commitments of politics and policy. Progressives should be reaching out to Catholics and Protestants who share a lot of general commitments with progressives, and even share some very specific policy positions. Why should it be necessary that everybody agree about abortion and gay marriage in order to do something about hunger?

Title: The Death of Meaning in Law and Life

Date: 2014-12-06T06:11:00.001-05:00

12/6/2014--I have been thinking about the meaning of the death of meaning. Several different kinds of formulations have been coming to me about where we are right now in our culture. Here is one that a friend has said inappropriately puts law front and center when really it is about governance. ***** Whatever you think is the role of law—that it resolves disputes or oversees social bonds or gives regularity to life or limits government or imagines new social/political/economic institutions—it can only accomplish that role within a setting of meaningfulness. Law is the opposite of one thing after another. That setting of meaningfulness need not be the creation of law, nor need it be law's role to maintain it. But law can only function within it. Law functions to translate human power out of its simple givenness. Law can thus be understood as the enterprise/discipline that renders the actions of human power meaningful. That will be heard as law justifying power and American law has often served that role—the subordination of women was once referred to as “the law of the Creator.” But the announcements that the actions of human power are discriminatory, unjust, unfair and untrue also render the actions of human power meaningless. American law has done all that too. Law comes on the scene because human beings need a setting of meaning or we die. This need is much like the experience of volunteers in experiments suspended without sensory inputs. After a time, they start to go mad. Without inputs of meaning, human beings go politically mad, as we are doing now. Law as the enterprise that renders human force meaningful helps us to interpret numerous aspects of legal history: why the legal opinion evolved, why Lon Fuller thought legal positivism not a genuine jurisprudence, why legislatures can act, but judges must explain, and so forth. The understanding of law set forth above helps the reader understand why I view the death of meaning in American law as a momentous event. If the death of meaning becomes dominant, as it is on its way to becoming, law becomes impossible. This article, describing the death of meaning in American law, responds to this crisis as the first part of a two-part undertaking. In the first part, we see the path law is currently on. In the second part—elements of a new jurisprudence—we consider how we might begin to turn around.

Title: There Was a Moment

Date: 2014-12-09T06:18:00.001-05:00

12/9/2014—There was a moment when Judaism became a universal religion. There was a moment when it abandoned its emphasis on religious law binding only its members. There was a moment when the love of God became its guiding and only principle. Unfortunately, that moment passed. The Jewish group pressing for these changes diverged and ultimately became Christianity—with problems of its own, including its overliteralization of the image of the son of God. When the moment passed and the Roman Wars came, Judaism became more inward and law bound than ever. And the long march toward its crisis over the meaning of the non-Jew, spurred on by the unspeakable violence of anti-Semitism, began. That march has come to its logical climax in today's State of Israel proposing to redefine the State so as effectively to abandon its commitment to democracy and equality for non-Jews. Does it matter at this point whether the legislation passes or is defeated narrowly out of a fear of what the outside world might think? That such a law would be seriously considered makes the point that Judaism is finished as a world religion. The point is theological, not political. Is the redemption of all humankind God's plan or not? Or is God's concern just for the Jewish people? Most American Jews, blindly basking in America's Protestant culture of democracy and equality (all right, more theoretical than real, but still...) assume their religion is like them. But I believe Netanyahu is right about what Judaism became.

Title: No Justification for Torture

Date: 2014-12-11T05:32:00.001-05:00

12/11/2014—I was afraid for a moment that some politicians would attempt to justify torture after the release by the Senate Committee of the report of its post-9/11 investigation of CIA interrogation methods. Thankfully, there has not been very much of that. It's nice to be a superpower. So our officials will not be tried as war criminals by any international court. That is too bad. I would prefer an international tribunal to any attempt to try anyone here, which would just be dismissed as partisan. Here is what the author of the torture memos, John Yoo, wrote: "You might even approve waterboarding in the time of emergency," Yoo wrote, "if limited only to enemy leaders thought to have information about pending attacks....I thought the CIA's proposed interrogation methods were within the bounds of the law – just barely. They did not inflict serious, long-term pain or suffering, as prohibited in the federal statute banning torture." Why is John Yoo not shunned by the legal academy? He is a law professor at UC Berkeley, treated as completely normal.

Title: The Tough Guys Who Favor Torture

Date: 2014-12-14T17:59:00.004-05:00

12/14/2014—Justice Scalia was quoted last week defending torture. He reportedly said that nothing in the Constitution prohibits torture in interrogation of enemy combatants and that torture would be justified if there were a bomb under New York City. Well, in order. The Constitution forbids torture as punishment (Eighth Amendment) and in interrogation (Fifth Amendment). I suppose there could be different rules for the War on Terror, but that would go to necessity (see below). As for necessity. Of course there are different rules for an emergency, but these people don't understand the difference between an emergency and the ordinary course of events. If there is a large bomb set to go off under New York City, you do not waterboard a suspect. You bring in his six year-old son and his four year-old daughter. You tell him if he does not give you the location of the bomb, you will shoot his son. Then you do it. Then you bring in the daughter and repeat. If necessary, you kill his mother. The point is that in a true emergency, normal moral limits are suspended. But you must not do regular business that way. If you do, if you decide the ends always justify the means, you become a monster—just as we Americans have become.

Title: Good News on Cuba

Date: 2014-12-18T04:29:00.002-05:00

12/18/2014—As I grade exams, it is impossible to think enough to write—in this blog or anywhere else. I ask my readers' indulgence. Nevertheless, at least a mention of the good news on Cuba. This is an example of why President Obama is so great. Whatever meaning nonrelations with Cuba and the trade embargo once had, they have been out of place for many years. Only dinosaurs wished their continuation. As for the trade embargo, lifting it requires congressional action, which will not be forthcoming. But it will represent one more reason to vote for Democrats for Congress. Wouldn't you like to vacation in Cuba?

Title: Questioning Capitalism

Date: 2014-12-21T05:36:00.000-05:00

12/21/2014—I signed an online petition yesterday for Bernie Sanders to run for President. I don't believe the petition specified how he might run, whether in the Democratic primaries or as an independent, and I don't want him to do anything that would help elect a Republican President, but I do want him to run. Sanders has no realistic chance currently to win the Democratic nomination. That candidate is likely to be Hilary Clinton, which is OK with me. I want Sanders to run to raise the issue of capitalism. Sanders is a socialist. These days, no one knows what a socialist is. The European socialist parties are essentially social welfare parties, which means they favor broad safety nets and public spending. That would be a big improvement over anything America offers in its politics, but it is still not the reason I support Sanders. I want to make capitalism a question. Since the collapse of Communism in the late 1980's, and really long before, since Communism had long been discredited as tyranny, there has not been any alternative to the global capitalist system. The reason cannot be that this system has operated well. It has not. It has been beset by regular crises. Its long term growth has not been rapid. Its benefits have been increasingly concentrated in the wealthy. Its innovations have tended to be trivial. Its skewed price system has contributed to global warming. And right now, it is sputtering. Making capitalism a question would also lead to political debates in America that would get beyond government and taxes. Why do white working class voters favor the Republican Party? They benefit disproportionately from Obamacare and yet they oppose it. Is this what the Marxists used to call false consciousness? Or is it a sense that liberals despise working people? Socialism takes no position in theory on issues of race, or gay rights, or guns, or abortion, or religion or immigration or other issues America calls social. I guess socialism must say something about the environment since that is so much a consequence of economic organization. I hope that a Sanders candidacy would be similarly restrained on all those other issues. A Sanders candidacy would ask the question, is capitalism a good economic system? Can we imagine a better one?

Title: Christmas Mourning, 2014

Date: 2014-12-24T05:30:00.000-05:00

12/24/2014—It's Christmas Eve Day. What is the best way today to commune with the Christ child? In my neighborhood, the holiday season is marked by parties and comraderie, but by little else. There is no resonance with the holy story itself. And there is no sense of the new hope that the birth of the savior of the world used to bring—the sense of new possibility. In his lectures on the poet Holderlin around 1935, Martin Heidegger attributes this description of the religious moment to Holderlin: it is a time of holy mourning, in which the only way to show respect for the old gods, who have fled and are absent, is to refuse to call upon them. I used to feel in synagogue that it was not possible to show reverence for God that way—that all the rites had become false. And of course I said I did not believe in God. But maybe that just meant that God had fled. In this lecture, Heidegger associates the mood of holy mourning with Nietzsche, as well as with Holderlin. He is speaking of all those who know the gods have fled and are willing to live forthrightly with that knowledge—awaiting a return of divinity. Now you may want to change terms—using meaning for divinity, for example. I won't quibble and neither should you. There are many invisible forces that human beings do not control. We don't control our own moods, nor that of our age. We don't control the sense of the darkening of the world. We don't control the trivialization of technology, in which shopping and playing computer games is somehow viewed as worthwhile activity. So, what is hallowed secularism but holy mourning? Well, I admit that I'm not sure the gods have fled. Maybe we just pushed them away.

Title: Religion as Tool, Not Identity

Date: 2014-12-27T09:04:00.001-05:00

12/27/2014—In America, if you ask someone whether she is religious, you will probably get an identity-type answer, as in, “I am a Christian.” And you may get more specific identities—I am a Presbyterian or I am an Orthodox Jew. The reason Americans answer that way is the monotheistic tradition in the West. Under monotheism, a person follows one God, as reflected in one religious tradition. Increasingly, however, this approach is not helpful to some people. Some people do not find any religious tradition that speaks to them as a whole. Instead, they might want a Christmas service for beauty, a Yom Kippur service for repentance and a Buddhist ceremony for tranquility. The monotheistic traditions hate this sort of thing. They even have a critical name for it—syncretism. A person is supposed to belong to one place of worship in one tradition. There is something to be said for a one-church life, especially the communal aspects in a fragmented and individualistic world. But this life is not for everyone. I am told that in China, there is much more mixing and matching of religious traditions, especially Taoism, Buddhism and Confucianism. (I don’t know about the over 100 million Christians in China—but you can hear the identity language in my describing them as “Christians). I believe that genuine spiritual seekers—a horrible term because of its humanistic implications—must break this church monopoly and must free their minds to think of the religious traditions as tools in a lifetime of discovery rather than as limiting identity. The hard part of this is to know enough to be able to participate in the different ceremonies and traditions of each religion. That requires real study. The other problem is that the one-church people may be insulted. There is less and less of that, thankfully. Another problem, though, is the potential absence of humility in the religion-as-tool approach. It suggests that humans are in control, using religion. Tool may be a bad image. So, perhaps instead, it would be better to think of the religious traditions as signal receivers, like radio telescopes, and the realm of the divine as a gigantic transmitter. Then one could say that she finds the signal strong in some contexts but not others. And we go from tradition to tradition, trying to gain signal strength. The fault then could well be in ourselves rather than in the religious traditions. Nevertheless, better to move the radio than to miss the program.

Title: The Radical Religious Message of A Charlie Brown Christmas

Date: 2014-12-30T03:21:00.001-05:00

12/30/2014—I did not see A Charlie Brown Christmas this year, though I read that it did air on ABC uncut on December 16. The radical message of this classic Christmas story is simply that it properly sets its feel-good story of the little Christmas tree against the background of the Gospel message—Linus quotes the second chapter of the Gospel of Luke, verses 8 through 14 from the King James Bible, in which angels from heaven tell a group of shepherds of the birth of the baby Jesus, and instruct them as to where they can "find the babe" who is the savior. It is safe to say that today, although the story of the miserable little tree that only needed a little love versus the commercialization and gift-giving frenzy of Christmas, might still be able to find a national audience, the link to the Gospel would never be permissible. The show still airs because in 1965, when it was made, the link could still be made. And the show is too beloved for the networks to pass up. The triumph of love and giving is a theme in a lot of Christmas programs. But the actual Christmas message itself cannot be told today to a mass audience. Nor could it seriously be suggested today that all the kids in the neighborhood celebrate your basic Protestant Christmas—Linus is reading from the King James Bible. It's not true anymore—and was not true in 1965. And what is the link? On the simplest level, the Christ child is this Christmas tree, rejected by society as poor and marginal, but seen in a different way, a true symbol of love. The truth of the universe is here, at the margins and with the rejected ones. Charlie Brown is the Christian seeker, whose doubts and failures are used by God to bring the world closer to Christ. I urge everyone to see it and show it to their children, whatever their orientation. The best part of the show is the lightness with which all of this is done. For on the one hand, A Charlie Brown Christmas is too religious for a mass audience today. But on the other hand, it is way too secular for a Christian audience. It makes its religious points with real restraint.



POSTS:
2015

Title: What Obama Can Do On Iran

Date: 2015-01-02T11:36:00.002-05:00

1/2/2015—I was listening to NPR interviewing US Senator Marco Rubio yesterday morning. I had heard in an advertisement for the interview that Senator Rubio was trumpeting the likelihood of a veto proof majority in Congress for additional sanctions against Iran.

This news has left me angry, even astounded. President Obama clearly believes that a deal with Iran is close and has therefore been conciliatory. There have also been indications from the leadership in Iran of a similar desire for a deal. News reports had indicated that the reigning Iranian people were encouraged by President Obama's language and were very desirous of peace. Under the circumstances, it seemed to me that Senator Rubio was trying to wreck the deal intentionally for political reasons – – he is considering a run for the Republican nomination for President in 2016. Such a cynical calculation struck me as almost treasonous.

However, after listening to the interview, I believe I have done Senator Rubio a disservice. He pretty obviously does not believe that any deal with Iran will be forthcoming. Senator Rubio does not believe that the leadership of Iran wants a deal. Therefore, from his point of view, he is wrecking nothing at all.

In addition, all Senator Rubio said in the interview was that Congress preliminarily would require President Obama to report any deal to Congress before it goes into effect.

So, Senator Rubio is sincere. But he is still terribly misguided. Senator Rubio's conclusion that no deal with Iran is possible amounts to nothing more than a self-fulfilling prophecy. Plus, he is not being candid. If no deal is possible, and if a nuclear Iran is unacceptable, then military action against Iran should be undertaken. It is not a matter of sanctions.

I am going to try to reach someone who advises President Obama, perhaps with some other law professors, about the legality involved in all this. First, if President Obama has authority to enter into an executive agreement with Iran, then Congress has no authority over such negotiations nor over any such agreement. The President cannot be ordered to report anything. Whether the president has the authority is another matter.

Second, Congress clearly does have authority to enact mandatory sanctions against Iran. The president would be obligated to carry them out. But such sanctions would be ineffective unless they are part of the coordinated action by America and her allies. Such unanimity is present now, but would not be present if unilateral sanctions enacted by Congress scuttle a deal.

Therefore, I would urge President Obama to throw down the gauntlet if Congress attempts to interfere with negotiations with Iran. The President should enter into an agreement, should agree to the beginning of the process of normalization of relations and should denounce sanctions enacted by Congress. In fact, President Obama should publicly and expressly urge our allies to ignore any such increased sanctions. That would render the sanctions ineffective and would help gain the trust of the leadership in Tehran.

Title: 29 Nome, Alaska—11 Pittsburgh

Date: 2015-01-08T19:26:00.002-05:00

1/8/2015—It's been very cold in Pittsburgh the last few days. And it was very cold last winter. How then can 2014 have possibly been the warmest ever? I noticed a pattern last year that has held up this winter. When it is cold—not record breaking, but cold—in Pittsburgh, it is unseasonably warm in Nome, Alaska. And vice versa. When it is warm in Pittsburgh during the winter, it is seasonable in Nome. This suggests to me that there is not as much cold air to go around in the Northern Hemisphere as there used to be. And the warmth in Nome dwarfs the cold in Pittsburgh. Right this minute, around 7 p.m. local time, it is 29 degrees in Nome—16 degrees above normal. In Pittsburgh, it is 11 degrees below normal. This has been the pattern. Pittsburgh is not setting records, but Nome is close to doing so. Pittsburgh will warm up. Nome will get colder. But the trend is unmistakable. People still doubt global warming. George Will just wrote a column about it—a weird one about how other factors warm and cool the climate, as if anyone ever doubted that. But even as they deny, the climate keeps warming.

1/10/2015—In the wake of the horrific shootings in France, Muslims all over the world have protested that Islam is a religion of peace—which of course in a sense is true. There are around 1.6 billion Muslims in the world. Obviously, Islam allows for peaceful existence. But the major reigning ways of existence all have flaws at their heart that must be confronted if these ways of life are going to lead to human flourishing. They are inherent, not accidental. Specifically, Islam has not yet confronted its violent past. Islam originally spread largely through violence. Its current calls for violence still resonate. Death for denigrating the Prophet is not heretical. The Saudi punishment of 1000 lashes for free expression is not so different from the shootings in France. These flaws are tendencies, not the whole truth of these traditions. But if you pretend they don't exist, they just remain. Judaism in its turn has never solved the problem of the stranger, the non-Jew. God's plan for the world always centered on the Jews, not on anyone else. That is why the movement to deny democracy in Israel to non-Jews resonates. That is why peace with the Palestinians is a theological necessity, not just a political one. Similarly, inequality in capitalism is not easily eradicated. It is part of the inherent logic of capitalism. Can it be cured or even tamed? I doubt it. Of the four traditions I mentioned in the title, the colonialism of Christianity, which arises from the call to make disciples of all nations, is the closest to being confronted. Christianity has denounced nationalist colonialism. But Christianity still defends its efforts to spread itself. It now claims the right to do so nonviolently. Maybe that is the answer. None of the traditions can be cured, but each can be reformed so that its flaws do less harm. But there is no pretending the flaws do not exist. They are historic tendencies that must be confronted. Secularism and liberalism are not immune from this analysis, either. They tend to materialism and individualism respectively.

Title: Heidegger and the Jewish Question

Date: 2015-01-14T06:11:00.002-05:00

1/14/2015—An exchange in the December 4, 2014 issue of the New York Review of Books shows once more how we need to understand the philosopher Martin Heidegger in order to confront the condition in which humans find themselves today. Specifically, Peter Gordon had written in the October 9, 2014 edition a story about new publications of Heidegger's notes. Bruce Henley wrote a letter to the editor in December noting "Martin Heidegger's bizarre metaphysical equivalence between mechanized food production and death camps." Gordon responds and notes Heidegger's opposition to the "racial breeding" of the Jews. Since I rely so heavily on Heidegger, it may seem I come to his defense. Well, yes and no. Heidegger's action in the 1930's were not courageous, insightful or even honorable. He clearly hoped that Hitler and the Nazi movement would represent a third way between America and the Soviet Union. He joined the Party and became Hitler first Rehtor—University President. But he resigned his post by 1934 and during 1935 to 1936 wrote his Contributions to Philosophy, some of which would have gotten him shot if it had been made public. Contributions is now available in English and there is no excuse to ignore what it tells us. Heidegger criticized racial politics and the manipulations of mass media—pretty clear references to the regime. He may have felt the same way about the racial orientation of the Jews—I don't know. But in the 1930's it would have been impossible not to think in racial terms considering the emphasis in German society. Heidegger was not supporting the final solution—undoubtedly he was horrified by it. And this is the point about industrial farming. Heidegger saw the roots of mass murder not in individual guilt but in the foundation of technology itself. Here is the quote, from a lecture in 1949: "Farming is now a motorized food industry, in essence the same as the fabrication of corpses in gas chambers and extermination camps, the same as the blockade and starvation of the peasantry, the same as the fabrication of the hydrogen bomb." People who find this outrageous are not understanding Heidegger's point. He is saying that these matters are beyond individual guilt. Technology is destroying the world. I would have thought that in the world of global warming that may kill millions, if not billions, Heidegger's point would be better understood.

Title: How Serious is Global Warming, Really?

Date: 2015-01-18T05:43:00.002-05:00

1/18/2015—I don't mean by this headline to refer to the effects of global warming (not climate change—the problem is that it's getting warmer). Those effects are really bad. I am referring to the effort to prevent the harm. Is such prevention possible without changing everything? I have always thought that global warming fits easily into a capitalist model. It is a case of the tragedy of the commons—an example of a massive but simple market failure. Nobody owns the climate. If someone did, then you would have to pay to change the climate and no one could afford to do so. Economic growth would then have to proceed without changing the climate. Capitalism knows how to deal with market failure—you redefine property rights and/or regulate the price structure to compensate for the failure. In the case of global warming, you allow losers to sue winners—south sea nations whose land is disappearing—and you put a massive tax on forms of emissions—carbon, methane etc.—that contribute to global warming. Since the point of such a tax is not revenue but to change the price of products, such taxes get returned to the public. Lower social security taxes, as the conservative columnist Charles Krauthammer proposes. In theory, none of this is inconsistent with a continuing market economy. But Naomi Klein's new book, *This Changes Everything: Capitalism vs. the Climate*, argues that this kind of thinking is wrong. And dangerous. In her view, the instincts of climate deniers are right. They know deep down that if they admit the truth of global warming, their whole world will have to change. No more growth. No more private economic activity. Government regulation of everything. No more absurdly rich people. But this could be good. Because such a massive change could destroy the worst excesses of the current socio-economic-political arrangements of late capitalism. This is very much worth thinking about. But here is my first take. Prior to WWI, some people in Europe yearned for a big change—and they got it. The pre-war world was destroyed. And it took WWII to destroy the colonial system. But those events were so horrible in themselves that you have to wonder about this kind of catastrophic change-making. Maybe global warming would be preferable. And anyway, command economies don't necessarily deliver either equality or environmental health. There is also a danger in imagining that global warming will deliver the sorts of changes that someone really wants anyway but cannot get politically right now. That is using global warming, not dealing with it.

Title: We're On a Crash Course

Date: 2015-01-21T05:26:00.001-05:00

1/21/2015—The U.S. Supreme Court reached practically the only result it could yesterday in *Holt v. Hobbs*, the case of the Muslim prisoner who wanted to grow a full beard in an Arkansas prison and compromised by proposing a ½ inch beard. Prison authorities still said no and the Court held unanimously that this refusal violated the Religious Land Use and Institutionalized Persons Act. (RLUIPA). The case was ably handled by the dean of law and religion, Douglas Laycock. The main takeaway from the unanimous opinion is that even “idiosyncratic” religious beliefs are protected by the statute (although this instance was clearly not such, Justice Alito went out of his way to state that agreement by others is not the test) and the heightened scrutiny of the Act means just what it says. Most states now have statutes like RLUIPA and the Religious Freedom Restoration Act (RFRA). In many contexts, religious believers are going to be able to challenge government policies on the basis of their own perceived religious needs. Under the standards of *Holt*, many should win. And, if the “spiritual but not religious” crowd decides to get in on this action, how will the courts make any judgments about what is and is not a religion? Years ago, in limiting the reach of the Free Exercise Clause, Justice Scalia warned that this would happen. Most people, including me, thought that he was insufficiently protecting religious liberty. History may prove him right. On the other hand, these are statutes. They were passed and they can be repealed or modified. Undoubtedly, one day they will be.

Title: More Nihilism on Abortion

Date: 2015-01-24T06:35:00.001-05:00

1/24/2015—In a column today in the New York Times, Gail Collins puts her finger on the real issue in the abortion debate—when does human life begin? She notes that opponents of abortion grudgingly recognize exceptions to bans on abortion, like rape, because they believe that life begins at conception. But then she adds this: “But the question of when a fetus inside a woman’s body becomes a human being is theological. If you truly believe that human life begins the moment a sperm fertilizes an egg, you can’t admit any exceptions. The only real debate is whether you get to impose your religious beliefs on the entire country.” Why is this question theological? Everybody agrees that a fertilized egg becomes a human being sometime. When is it? There were cultures in which the death of a child within ten days of birth was treated differently from a death later in time—or so I remember. When is that definition not a matter of theology? At birth? But why? It has always seemed inescapable to me that my life began when sperm fertilized egg. I don’t feel like this is a theological issue and I’m not aware of any theological teaching on the matter influencing me. I just cannot think of another point at which my life could be considered to have begun. Isn’t there anything of truth here? No. Because there are interests at stake—the interests of pregnant women in being able to get an abortion. So the question becomes theological, which means subjective, which means any answer is as good as any other, which is how nihilism works. This is how global warming denial works too. Of course human life begins at conception. The question is not theological. It is biological. The legal, social, question, however, is how a society that has ultrasound images of developing babies treats early human life. Does such a society allow abortions and when? You can even call that theological, if you mean it is inescapably normative. But it is normative for everyone. Here, compromise is inevitable.

Title: Politics at the Water's Edge

Date: 2015-01-28T19:38:00.003-05:00

1/28/2015—Too late perhaps, but newspaper reports indicate that Israeli Prime Minister Netanyahu is suffering politically during the Israel election campaign for his decision to become part of a domestic political dispute in the United States. Specifically, some voters in Israel worry that Netanyahu's decision to speak to Congress without the approval of President Obama may redound to Israel's harm. That is undoubtedly the case. The decision by John Boehner, Speaker of the House, to invite a representative of a foreign power to come to the United States in order to criticize the foreign-policy of the president of the United States, is shocking. It used to be said that politics stops at the water's edge. You could not imagine, for example, Congress inviting Winston Churchill to speak to Congress without the approval of FDR. But, that era is long gone. We no longer have that kind of political discipline. What is almost comic about Boehner's decision, is that the notion of Congress having its own foreign policy is a direct violation of the separation of powers. It is far more of the violation of the separation of powers than anything done by President Obama in his executive order regarding immigration. Outside of spending and treaties, the president alone makes the foreign-policy of the United States. Basically, you change the foreign policy of the United States by electing a new president. I'm only sorry that president Obama did not force Netanyahu to the public humiliation of canceling the speech. Since President Obama controls the veto at the United Nations, that would not have been hard to do.

Title: How to Think About Constitutional Government

Date: 2015-01-31T06:04:00.000-05:00

1/31/2015—I am reading the manuscript of a new book by Randy Barnett, Georgetown Law School professor and the author of *Restoring the Lost Constitution*. It is great and Barnett is the most profound and provocative legal writer in America today.

Barnett's approach is to try to return us all to what might be called "first principles": what is constitutional government all about? And the basic answer is that the purpose of government under the Constitution is just what it was thought to be in the Declaration of Independence. Government is instituted to secure our fundamental rights and the consent of the governed is presumed to be just that. No one would consent to a government that did less or more than that.

The Constitution is not a first principle in this sense. The constitutional system is just one way to structure a government that could reasonably be expected to accomplish the goal of securing our fundamental rights.

The framers thus might be wrong about the best structure. The structure of government must be strong enough to defend the nation and prevent interference by others with individuals pursuing their own happiness. But, of course, the framers might also be wrong about what fundamental rights are.

They might even be wrong about the reality of fundamental rights. If they are, Barnett's premises become a kind of Rawlsian experiment—Rawls' original position—of asking what a hypothetical group of people would consent to concerning government.

Now, in this context, the structures of the Constitution should be thought of as experimental, not fundamental. And I think they should be tested by history. That is, if some government action that needed to be taken to secure our fundamental rights, would not have been taken if the constitutional structure were strictly construed, then the structure is defective. (This is like asking how well a current climate model would have predicted past climate change—if it was inaccurate then, we should not trust it now).

So think about Martin Luther King's call to J. Edgar Hoover in 1964 for the FBI to do a better job investigating the murder of civil rights workers and church bombings. There is no obvious constitutional authority for such federal investigations. These crimes were carried out by individuals whom the local authorities sometimes refused to indict, but sometimes just did not try very hard to investigate.

So I believe that congressional power should be thought of as available whenever the states prove incompetent to act to secure our fundamental rights. (there was a moment at the constitutional convention when something like was passed).

This view makes the litigation over Obamacare—*National Federation of Independent Business v. Sebelius*—questionable but trivial. The question should never have been whether Congress could force Americans to buy broccoli. As a matter of regulating commerce, the answer to that should have been, why not? Such a requirement would have increased the flow of commerce.

The question should have been whether any government can force Americans to buy a product. The NFIB case was always a fundamental rights case masquerading as a commerce case for reasons of legal strategy.

Title: The Sanctions Crowd Want War with Iran

Date: 2015-02-04T05:25:00.002-05:00

2/4/2015—The Pittsburgh Jewish Chronicle reported last week on efforts to build a veto-proof majority to back more sanctions against Iran. Iran has warned that such a bill would end efforts to reach a deal with the Obama administration and an international coalition to reduce the threat of an Iranian nuclear bomb. I disagree strongly with the sanctions crowd, but isn't it irresponsible to say the "want war" with Iran? Isn't that kind of rhetoric what's wrong with American politics? But it isn't always wicked to want war. Churchill would have preferred an early war with Hitler, before Germany could complete its rearmament. If you believe, as the columnist Charles Krauthammer does, that Iran would use a bomb against Israel out of religious anti-Semitism despite the losses that use would cost Iran, then of course you prefer war with Iran over any feigned negotiations. The government of Iran must be just playing for time, as Hitler was doing. Actually, I should say, this crowd does not want war. They want to perform an act of war against Iran—bombing its production facilities—to which they believe Iran will be unable to respond. Well, who says Iran will be unable to respond? To me, that is war. These people do not realize that they just demonstrate the need for Iran—or any other State—to have a bomb and a delivery system. No one is suggesting bombing North Korea. But more to the point, the fanatics here are the crowd itself. To them, the Iranian leadership is not fully human. And it is the same paranoia that used to say that the Soviet Union would be willing to absorb the losses of nuclear war. We now know that the Soviets, having suffered so much in WWII, abhorred the idea of world war. They never intended to attack the West. That was a psychological projection by some officials in the United States. Similarly, Iran lost heavily in the eight years of war, from 1980 to 1988, against Iraq. Those who say Iran would just attack Israel notwithstanding the certain Israeli retaliation, are making the same mistake we made with the Soviet Union. The idea that bombing Iran would do much to stop the march to a bomb is another fantasy. The sanctions are working. They have certainly helped drive Iran to the table. If negotiations fail, there is plenty of time to increase them. I believe the real fear of the sanctions crowd is that a deal will be reached. Since they believe peace is impossible, any deal will just aid Iran in its drive to genocide against Israel. If you believe that, you prefer war.

2/10/2015—A couple of years ago, the national Republican Party floated the idea of moving a couple of blue leaning states they controlled from winner-take-all Presidential election states to congressional district winning states. What the Republicans did not explain is that such a move would destroy democracy in the United States. The reason this is so is the peculiar way we Americans elect the President. We do not vote directly for President but for Presidential Electors state by state who meet in the Electoral College and cast their votes for President. This system is a holdover from a theory of the framers of the Constitution that the President would be selected not democratically but as a result of a deliberative process—like the way Cardinals elect the Pope. America evolved to regard its President as necessarily democratically elected and that understanding sits uneasily on top of this rickety structure. Most of the time, the Presidential candidate with the most votes wins. Even when this does not happen, as in 2000, the vote is close. The reason an undemocratic Electoral College usually yields democratic results is that most 48 states practice winner-take-all. Thus, Republican votes in California are discounted, as are Democratic votes in Texas. The system only works as a whole. The system would also work if all the states divided their electoral votes by congressional district. But if a couple of blue states changed to congressional district while the rest remained winner-take-all, only democratic votes would be discounted nationally. The result would be that the Republican candidate for President would usually win, even if that candidate received less votes. This might happen every time. Obviously, that would be the end of democracy in America. Eventually, the people would wise up and some military coup would end Republican rule. The Republicans who floated this idea had no notion of how dangerous this idea was. But to see how deep the cynicism is, in both Parties, the New York Times reports that Nebraska, one of the two states with congressional district election, is considering moving to winner-take-all. All believers in democracy should rejoice. We need all states to go to winner-take-all and stay there. But this is not how the matter is seen. Republicans are pushing it because they want to maximize their electoral vote—“It’s obvious that the majority of citizens of the State of Nebraska are Republicans,” said J.L. Spray, the state Republican chairman. “They want to have the maximum voice in the Electoral College.” Meanwhile, “Democrats, not surprisingly, are fighting back.” No. Democrats should be very happy. They should press for a national commitment to keep the Electoral College as democratic as possible by having the same system in every state. But Democrats are no more committed to democracy than are Republicans.

Title: Why Does ISIS Have Any Support?

Date: 2015-02-13T18:11:00.000-05:00

2/13/2015—After all, everything about ISIS is repulsive to decent people. And that has nothing to do with the nature of one's religion. Its actions are horrifying to Muslims too. And yet it does attract thousands of Western youths. Why? I believe the reason is the emptiness of Western life—the bankruptcy of our ideals. The exhaustion of our tradition. Two hints of this from the New York Review of Books. Sarah Birke in *How ISIS Rules* attributes the growth of the group to the absence of “convincing ideologies” in the West. And Mark Lilla in *France on Fire* points out that Republican ideology collapsed in French schools in the 1970's and nothing really took its place. What do we believe in? Conservative and libertarian thought is at heart a corrosive individualism. Capitalism is greed. Technology is an addiction. And liberalism no longer believes in its proffered truths. Worst of all, we Americans have failed to build a political culture of affection and community. We hate each other. We mistrust each other. Why should young people find our way of life enticing?

Title: Bad News From Ukraine

Date: 2015-02-20T06:24:00.001-05:00

2/20/2015--There is plenty of bad news in the world this week. Certainly ISIS. The economic situation in Greece. But the potentially dangerous news had to do with Ukraine. Vladimir Putin, the President of Russia, is playing a deadly game. And no one knows what he wants--does he? This morning, Ukrainian military forces continued their retreat from Debaltseve, while British fighters scrambled to intercept Russian bombers near the British coast. We may assume that nothing is accidental. Putin is insisting on a free hand in Ukraine and is threatening--what? War with the West? Over what? A land bridge to Crimea? Incorporation of all Russian speakers into Russia? At some point, there will be a response from the West that will be harmful but insufficient to deter Putin, who has put all his eggs seemingly in the Ukrainian basket. He can't back down without real political pain at home. It is funny to see Putin participating in "cease fire" talks he has no intention of honoring. Putin controls the military situation in eastern Ukraine and there would be a cease-fire if he wanted one. Meanwhile, what happened to the Obama Administration and its talk of military assistance to Ukraine? Where are the missiles extended to Poland? Economic sanctions have worked. But they have not been dramatic enough. It's time for a different kind of response, mainly to remind Putin that he is playing with fire. Because he is and does not seem to realize it.

Title: Transformed Without God

Date: 2015-02-24T03:35:00.001-05:00

2/24/2015—The question is often asked, and resented by the religiously unaffiliated, can you be good without God? Obviously you can, say those who call themselves nonbelievers.

It's the wrong question, for two reasons. First, religious practitioners are not good. They are terrible sinners. Just ask their traditions. The word "good" here means, I haven't killed anybody. It does not mean I have lived in dedication to others, to truth, in depth or anything else. It does not even mean I have been faithful to those around me. It does not mean anything important. Jesus said, why do you call me good?

So we're not good and that is related to the second point—the question of life is not ethics. The question is transformation and human possibility. Organized religion is not too good at that. But non-organized religion is terrible at it.

To illustrate this, listen to how Phil Zuckerman describes secular life in his new book, *Living the Secular Life*—(by the way, I got this from a book review by Susan Jacoby in the *New York Times*) "He extols a secular morality grounded in the 'empathetic reciprocity embedded in the Golden Rule, accepting the inevitability of our eventual death, navigating life with a sober pragmatism grounded in this world.'"

Now nothing about this is terrible. But it is boring. It's proud of itself for accepting that we die. But Martin Heidegger long ago spoke of authentic human life as being toward death—*sein zum toda*. Indeed, Cicero described philosophy as learning to die. This is not new and Zuckerman's take, extolling pragmatism, is empty. What is pragmatic if I'm going to die anyway? Does pragmatism mean reasonably self-regarding but not hurting anybody, at least not doing so outside normal limits? Why not just quote Google—don't be evil?

But Google can be sinister, too. Good people are monsters sometime. Maybe most of the time.

Now, contrast this with the call to enlightenment in Eastern religion. Or the call to self-sacrifice in Christianity—he who would save his life will lose it. And what about living in depth, in art, for example? Or devotion to truth? Or anything that would make life worthwhile?

There is a view in secular thought that the problem with human life is the belief in transformative possibility itself, that such a view leads to death camps. This view was stated classically and elegantly by Isaiah Berlin. I just reread [A Message to the 21st Century](#) in the *New York Review of Books*, which says this specifically:

"Let me explain. If you are truly convinced that there is some solution to all human problems, that one can conceive an ideal society which men can reach if only they do what is necessary to attain it, then you and your followers must believe that no price can be too high to pay in order to open the gates of such a paradise.

The root conviction which underlies this is that the central questions of human life, individual or social, have one true answer which can be discovered. ... This is the idea of which I spoke, and what I wish to tell you is that it is false.

So what is to be done to restrain the champions, sometimes very fanatical, of one or other of these values, each of whom tends to trample upon the rest, as the great tyrants of the twentieth century have trampled on the life, liberty, and human rights of millions because their eyes were fixed upon some ultimate golden future?

I am afraid I have no dramatic answer to offer: only that if these ultimate human values by which we live are to be pursued, then compromises, trade-offs, arrangements have to be made if the worst is not to happen.”

Berlin admits that his view “is not a flag under which idealistic and enthusiastic young men and women may wish to march.” His view “does not engage the generous emotions... .” But it will keep you from killing anybody and may to a certain extent improve the world.

This is the dead air of positivism. It is Phil Zuckerman’s air also. And I want to tell you that if all you can aim at is not killing anybody, you will not even succeed at that.

Title: Is There Something Wrong?

Date: 2015-03-01T01:25:00.001-05:00

3/1/2015—I am visiting our grandson and family and my thoughts turn to his future. (It is also my birthday) I see America and the West in general as running out of steam. Our basic commitments, such as democracy and the rule of law, no longer seem to inspire. As we experience one more threatened government shutdown, we must acknowledge that forces more powerful than our criticism of this or that political figure are in play. People in public life may not be at all different from how they were before. It may be the context that has changed. It may not be possible now to perform properly in American public life. If so, what does that mean for the life of my grandson? As a symbol that something may be deeply wrong, take a look at pages 22 and 23 of the New York Times Book Review of February 22, 2015—two weeks ago. On page 22 is a review of Tom McCarthy's *Satin Island*; on page 23, a review of Jonathan Lethem's *Lucky Alan* short story collection. The reviewer of McCarthy's book likens him to the French theorist Guy Debord, who coined the term "society of the spectacle." I can't tell that much from the review, but McCarthy writes about a world dominated by corporations and technology, from which authentic human relationships have more or less disappeared. This is the commodification of experience, of which Debord wrote. McCarthy doubles as a cultural critic of a decidedly ironic bent—his collaborator is Simon Critchley. It is questionable what these people offer beyond parody and loss. Michael Greenburg's review of Lethem uses terms like absurdism to describe him. The best story, he writes, is the last one, *Pending Vegan*, in which a man with his family "feels under spiritual assault upon entering SeaWorld. The point here is the lack of authenticity. This is not some personal failing. It is, instead, an absence of credibility. There is no larger story that makes sense of existence. Both these writers feel that. The only beginnings of an alternative that I know of is the work of Martin Heidegger. Critchley's last book was about Heidegger. Maybe something will happen to change things and usher in a more hopeful future. But would you bet your life on that?

Title: The Foreign Leader Speaks

Date: 2015-03-04T04:31:00.003-05:00

3/4/2015—Yesterday, Israeli Prime Minister Benjamin Netanyahu said to a joint meeting of Congress that the deal that President Obama is trying to make with Iran is a bad deal and should be rejected. I did not watch. Of course there are good and bad deals and I have no idea what the Administration will be able to do with Iran. From the perspective of a deal, Netanyahu's speech might be helpful, since it will show Iran how difficult it is for the President to go forward. This might encourage Iran to reduce its own demands. I am interested in what the speech will mean for the future of American Jewry and American politics. It seems obvious that Israel is now a politically partisan issue in a way it was not before. Before, Israel enjoyed almost automatic political support. But now any position Israel presses in America will be evaluated more like any other issue. If the Administration does make a "one-year" deal with Iran—freezing activity so that it would take one year to make a bomb, Americans will support it. Such support would be overwhelming if Americans paid attention to foreign affairs. But it will be pretty high if the Administration mounts a "the alternative is war with Iran and more terrorism as a result" campaign. The Republicans are riding a bad horse here. If that happens, American Jews will for the first time line up on the opposite side of a position that Israel is pressing. You might say that has already been happening in regard to building settlements in the occupied territories, but the matter has never been presented that dramatically. The fundamental question is not an Iranian bomb, as important as that obviously is. The fundamental question is the nature of Judaism in America. If Judaism is not support for Israel, what exactly is it? The answer to that question will determine if Netanyahu's speech will be seen in retrospect as a marker on the path to the end of Judaism in America or as the first step in a religious rebirth.

Title: Watching the Left Behind Movie

Date: 2015-03-07T06:23:00.001-05:00

3/7/2015—Last night I watched the highly entertaining Left Behind movie, starring Nicholas Cage, Chad Michael Murray and Cassi Thomson, and based sort of loosely on the novels by Jerry B. Jenkins and Tim LaHaye. Let me say up front that, as Jackson Cuidon wrote in Christianity Today, this is not a Christian movie in the sense of raising any serious issues of theology about the Rapture in which believers are taken up to heaven by God before the tribulations of the end times can begin. Instead, it is, on the surface, a basic disaster movie with a plane landing with little fuel and a kind of alien movie, in which supernatural forces disrupt human life. Or maybe, as Cuidon also writes, it's basically Harry Potter. [He also points out the cruelty with which a dwarf is treated in the movie as showing its unchristian heart.] The rapture event is portrayed as entirely a matter of belief. You get taken because you believe something—presumably Christ as your savior. Other pious believers are not taken. This is symbolized by a Muslim in the movie. Undoubtedly, the producers were afraid to use a Jew in this context. This avoids the issue of the liberal Christian. In the movie, the world is binary—you are either a recognizable believer or not (or a child—all the children are taken). No instance of a rich person not taken because, although professing faith, he amassed too much money. One insincere minister is shown. One issue raised in the movie is whether a loving God would act this way. Thomson's character doubts it. Lots of people are killed, after all, when the Rapture happens. Airplane pilots are taken at a higher rate it seems than other adults. Nor is the question raised whether Mom, who is taken, should have renounced Christ to be with her daughter in her time of need. But I have more sympathy for the movie's religiosity than Cuidon does. It's very clear that the characters who are not taken are lost. A number of them are conventionally sinful—Cage is about to have an affair, for example. But some—Murray and Thomson—are not. They are good people who have not thought deeply about what human existence is about. They are brave and even loving, but they are in a kind of limbo. And because of that, they have no views on the structure of existence, human or otherwise. No critique by them of economics or anything else. Murray, the famous reporter, is asked about the tsunami he covered. He criticizes a believing woman who stayed with her child when she should have evacuated because God would protect her. But this is just the joke about God and the rowboat. ("I sent a rowboat to save you.") Revealingly, when he is asked by Thomson about the meaning of the tsunami, he has no answer. Not even, all those people could have been saved if more money had been spent on warnings. So, Left Behind is a kind of wake-up call after all. Don't drift through life. Make a decision. Not about religion, but about reality.

Title: Well, Some Dare Call it Treason

Date: 2015-03-11T05:33:00.002-04:00

3/11/2015—The news is dominated by the letter from 47 Republican Senators to the Iranian leadership explaining that they will not be bound by any deal President Obama makes with Iran. Even the sympathetic Daily News called them “Traitors” on the front page. Well, why not? Why not send such a letter? Another sympathetic newspaper, the Tribune Review, wrote today that the letter was giving President Obama a dose of his own medicine. We have a President who legislates in violation of the separation-of-powers and a Congress that conducts its own foreign policy, also in violation of the separation-of-powers. Yesterday, New York Times columnist David Brooks lamented relativism as it affects family life. He was referencing, if I remember correctly, Robert Putnam’s new book, *Our Kids*. The poor lack values, Brooks wrote. But Brooks is wrong to see nihilism only among the poor and only in intimate life. Here, in the President’s Executive orders and the Netanyahu speech and Iranian letter, is the face of nihilism. For nihilism is the lack of restraint that comes when there are no standards other than my own will. It is the will to power. Why shouldn’t the President act to promote good policy as he sees it? Why shouldn’t the Republicans try to protect the nation from the folly they fear? None of us has faith that our existing institutions will vindicate the good in the long run. So, we have to act. We are ensnared in what Heidegger called the nihil, the nothing. All that is left is self-assertion. And it is on all sides. I’m not without hope that we will not remain in this plight. Heidegger famously said “only a God can save us.” And he did not mean a return to old-time religion. But he did mean that a saving could happen. The question is, how does it happen? I wonder if we could begin to prepare in law?

Title: Would Prosperity Matter?

Date: 2015-03-14T05:58:00.002-04:00

3/14/2015—The extent to which working people have contributed to the prosperity of the owners of capital is truly astounding. Since 1979, I read today, productivity has grown over 60%, but wages have climbed only 6%. Put another way, if wages had matched productivity, which in economic theory they should, the median wage today would be \$54,000 rather than \$35,000. That is a lot of money and it has gone to shareholders of corporations rather than to workers. Now, what America should do about that, or whether anything could be done about that, is one question. But another question is whether a more equal distribution of the fruits of labor would make any difference. That second question asks what you think the basic problem in America is. If you think the basic problem is economic, then obviously you try to do something directly about the money. But if you think the basic problem is something else, then you do something about the money, but also you look to do something else as well. A friend of mine said last night that the basic problem in America is a general social breakdown. Students are dropping out of school. Families are not being formed. There is a general lack of social solidarity. There is great distrust. If he is right, let's ask whether a fairer distribution of income might contribute to more social cohesion? Would students be more likely to stay in school if they saw themselves getting really well paying jobs? They might. If the median income were much higher, would some people marry and raise children who now decide not to do so? They might. So, even if we accept what could be called a conservative view of America's troubles, that the troubles are moral, we might decide that economic inequality has to be aggressively dealt with. For me, the more fundamental breakdown is not economic or moral. It's hard for me to give it a name. Let me say for now that the problem is that we hate each other. And it may even be deeper than that. Our language may be exhausted. (But that would not prevent us from doing something to spread the wealth around.) Maybe all our troubles start there.

Title: Sustainable Political Thinking

Date: 2015-03-17T05:01:00.003-04:00

3/17/2015—The current conservative insistence that social disintegration is unrelated to money—so that the current push by the left to do something about income inequality will not raise taxes on the rich—is curious. It proceeds from an assumption that income inequality is not inherently bad, so that it is necessary to invent another goal other than redistribution to justify it. But, if worker productivity gains do not translate into more money for workers, then the bosses are stealing money that properly belongs to workers. You can correct that in different ways—stronger unions for example—but you don't need a theory of culture to do something about it. But the conservative drumbeat, by Ross Douthat and George Will, for example, reminds me that there is more to political life than money. In the same way that ecological systems must be sustainable, political life must also be sustainable. Political life that is nothing but argument by one side against the other is not sustainable. There are different ways of thinking about the styles of political life. Right now, all America has is ideological confrontation. (It is not really ideological). That is getting us nowhere. This style suggests far more differences among Americans than is really present. We exaggerate our differences because our political goals are merely oppositional. What would a more sustainable political life look like? I'm not sure. And maybe it is not possible. I'm told that the Permaculture Movement has an aspect of decision-making style. And it was once thought that President Obama's career as a community organizer would aid him in building consensus in Washington. But that did not happen. Maybe here, in styles of thought, is where philosophy could be of service to politics. Not philosophy in the analytic style of logic—though a little of that could not hurt in politics—but Martin Heidegger's questioning after being. A more soulful politics. On the other hand, did Michael Lerner's politics of meaning go anywhere in the 1990's?

3/21/2015—Let's assume that Netanyahu ran a racist campaign in which he revealed his true colors. He believes Arab Israelis have no place in Israel. He opposes creation of a Palestinian State. He wants the West Bank for Israel. He's willing to bomb Iran. Etc. Now what for American Judaism? Jews have been acting like supporting Israel through American power is a given and a good thing. That stance is now impossible for some American Jews because the policies above, which a majority in Israel voted for, do not deserve American support. So, support for Israel will have to end, or at least diminish. The Jewish vote in America is about to split. The Republican candidate in 2016 might get one-third of it. And maybe more than one-third of Jewish money. But that is just politics and might be reversed by a deal with Iran that would force Congressional Republicans and Netanyahu to back down. America is not in a mood for war with Iran. The Democratic nominee for President in 2016 would love to run on such an agreement. More difficult for American Jews is the religious question. Just what is Judaism apart from support for Israel? What is Judaism apart from identity? The pre and post-war period of Jewish thought looks now like a golden age that ended. Martin Buber and Abraham Joshua Heschel were widely read in America. Who is read now among young American Jews? And the religious current was so strong that it could fruitfully merge with secular thought, as in the work of the Jewish existentialist Victor Frankl in *Man's Search for Meaning*. This is no longer happening in America. The next step for American Judaism will have to be back to theology. Or, should I say, back to religious thinking. It is not clear that the resources are there for such a step.

Title: Holding Back the Chinese Tide

Date: 2015-03-25T05:23:00.001-04:00

3/25/2015—Is there anything as pathetic as an aging power attempting to retard the rise of a new one? Or, as pointless? Thus, the failure of the Obama Administration to convince our allies, especially Germany, to join China's Asian Infrastructure Investment Bank was both comical and embarrassing. Great Britain, Germany and France joined last week. Italy to follow. Joining the Bank should have been seen as positive--as a way of bringing the Chinese into the international community in a way that might have enabled our European allies to influence their new partner in territorial disputes China is having with its neighbors. (Of course, our allies can still play that role). But really what was the point? China is a rising power and very wealthy. And, unlike the US, able to act coherently. The surest way to conflict with China—unnecessary conflict—is to refuse to recognize that fact. In setting up this bank, China was not invading Ukraine. Was not insisting on its own sphere of influence to the exclusion of anyone else. China was expecting to use its new power to expand its influence. That is what nations do. If this was a subtle game—I doubt it—reassure Japan and South Korea by appearing to oppose the Chinese Bank, it was too subtle for me. I was just embarrassed by my country.

Title: How to Think about Religious Exemptions

Date: 2015-03-29T08:08:00.003-04:00

3/29/2015—For the last several years, I participated in a group that urged legislators to enact compromises on the issue of gay marriage. The legislature would amend the state's marriage law to allow gay marriage, while at the same time enacting a religious exemption from participating in gay marriage. The group's intellectual leader was the nation's leading expert on church state, Douglas Laycock.

The group's *raison d'être* has disappeared because the courts have brought about gay marriage judicially, thus leaving legislatures only to deal with the issue of religious exemption.

But religious exemption by itself, without the compromise of permitting gay marriage in the first place, presents a serious political problem. To understand the problem, and to see how it is playing out in Indiana right now, the reader must understand that there are two ways to think about a religious exemption from any kind of general law.

Perhaps the classic way of thinking about a religious exemption is to imagine a Jewish or Muslim prisoner who requests not to eat pork. The religious believer is focused only on his or her own religious life in such an example. The religious exemption is not intended to be a protest against the policy generally of prisoners eating pork.

But now imagine a devout prison guard, perhaps a Roman Catholic, who opposes the death penalty. The guard requests a religious exemption from participating in an execution partly out of concern for his or her own religious life but partly also as a protest against the underlying policy of the death penalty.

It is not usually necessary to distinguish between these two ways of thinking about religious exemptions because the religious believer in the second situation is usually such a minority that the protest part of the exemption is practically insignificant, politically speaking. The prison guard might hope to delegitimize the death penalty through a religious witness, but has no realistic expectation that this will happen.

But now consider the case of gay marriage. Although proponents of religious exemptions like to frame the issue in terms of the first example — the 70-year-old Florist, who only wishes to be left alone by a gay couple about to be married — the clearly political message being propounded by requests for gay marriage exemptions is opposition to gay rights. Religious believers are using exemptions to try to halt or retard the legitimation of gay marriage in particular and gay rights in general.

It is really not fair for proponents of religious exemptions in this context play such a double game. That is why compromise, like the Utah example in which discrimination on the basis of sexual orientation was linked with a religious exemption, can work, whereas simple religious exemptions spark controversy, as in Indiana right now.

I am not suggesting that anything can be done to limit the problem of religious exemptions in the current political context. But it would be helpful to think in these terms. It would help explain to religious believers who are not involved in the gay-rights issue to understand why people might oppose religious exemptions. And it would also help proponents of gay rights and gay marriage to more clearly delineate what they can accept and cannot accept by way of religious exemptions.

Title: What Can the Cross Mean?

Date: 2015-04-01T22:42:00.002-04:00

4/1/2015—What can the cross mean to the nonreligious? (I mean the nonaffiliated). After all, the cross is the intensely Christian symbol. What can it mean for the rest of us? I've been reading Martin Heidegger's difficult masterpiece, *Contributions to Philosophy*. Heidegger is on the traces of being. Heidegger writes that the original thrust of western philosophy turned from being to beings. That tradition of metaphysics culminated in the various sciences and is now exhausted. He is seeking a new beginning. Philosophy seeks after the truth of being. Being is a formal symbol, which can be contemplated as how the holy, the sacred, comes to us. We have a hint of being as refusal. Refusal is the mysterious secret of human life. We don't know much. We can't know much. But we can know that. What is Jesus' last moment on the cross but the refusal? "Why have you forsaken me?" God does not speak or reassure. Yes, I know it is all happiness ever after on Easter, but that is not true of the Gospel of Mark. In Mark, the only way we know that the Kingdom of God endures after the cross is through the life of the participant. Heidegger presents a new understanding of Christian knowing.

Title: Making the Worst of Religion

Date: 2015-04-03T05:30:00.003-04:00

4/3/2015—I hope my reaction was not partisan. One of the best pieces of news in years was the President's announcement yesterday of a possible, not-yet-quite-final nuclear weapons deal with Iran. The very specificity of the announcement seemed to shock everybody. The New York Times referred to it as "surprising" and even Republicans in Congress were hesitant to condemn it. A real deal would change the politics. American does not want more war. Especially in the Middle East. So, what headline does the Tribune Review run in its Passover story? Nuclear Deal in Iran Casts Pall Over Jewish Holiday in Pittsburgh. Now, granted this newspaper is an opponent of President Obama. But it is still a newspaper. If the basic reaction the reporters had encountered had been cautious, overwhelming joy, they would have reported it. (My experience with the Tribune Review is that the reporters are very fair). So, how does that look to everybody? It looks like another example of a religion in the way of peace. This occurs at the same time that Good Friday arrives on the heels of religious believers forced to retreat on discrimination against gay people in Indiana and Arkansas. Welcome to the new face of religion—discrimination and war. Of course religion is supposed to stand up to the culture. So, all I can say here is that the religions in question are wrong. I'm all in favor myself of protecting that 70-year-old florist from delivering flowers to a gay wedding if she does not want to. But if that religious protection had been coupled with a gay marriage bill in the first place, and the rest of the bill linked with protections of sexual orientation from discrimination, none of the controversy would have happened. Religious believers offer gays nothing and then are surprised at the reaction. Where is the lure of religion? Where is its surpassing beauty in a world of gray ordinariness? It's there. Many, many millions will experience it during the next few days in Good Friday and Easter and Passover. But one of humankind's reservoirs of insight is drying up, like a California lake.

Title: Only Ten Years Stopping an Iranian Bomb

Date: 2015-04-08T21:43:00.001-04:00

4/8/2015—I feel like I am living in some fantasy land. I heard an analyst today say that the proposed deal with Iran is a mistake because it would only delay an Iranian bomb for ten years and after that it might be easier for Iran to build a nuclear weapon than it is today. I would have thought that the guarantee that we would have ten years breathing space would be greeted with rapture. A lot can happen in ten years, including peace and regime change or reform. Everything I have heard about the deal makes it sound like the real thing. And the extremes to which critics are going to criticize it makes it sound all the better. Which brings me to the real point. What is it about Iran that makes the Israeli government so crazed? Yes, Iran backs Hezbollah and other opponents of Israel. But really doesn't Saudi Arabia do the same thing? And Israeli seems close to a tacit deal with the Saudis. My theory is that the problem for the Israelis is that the Iranians are actually religious. The government of Israel is basically secularist. And that is true even on the right. There is a fear of what a really religious state might do—drop a bomb to bring on the apocalypse, maybe. But Iran has not acted in such a weird way. The country suffered horrible loses in a war with Iraq. I don't believe they would welcome an Israeli retaliatory bomb dropped on Tehran. We made the mistake with the Soviet Union of thinking it would risk nuclear war. That was never true. It is not true of Iran either.

Title: Going After Faith

Date: 2015-04-12T06:02:00.000-04:00

4/12/2015—I have always thought that Philip Kitcher is the best of the New Atheists. That is the group that came to the consciousness of the American public around ten years ago arguing against religion. The first wave of the movement culminated in the late Christopher Hitchens' blockbuster, *God Is Not Great: How Religion Poisons Everything*. Other well known members of the group were Sam Harris, Daniel Dennett and Richard Dawkins. My own books, particularly *American Religious Democracy* (2007) and *Hallowed Secularism*, (2009), which no one can afford to buy, were written in opposition to certain aspects of the New Atheism, though acknowledging the reality that many people were leaving the religious traditions—including the author.

Kitcher was the best of this group because of his compassion for people, especially in *Living with Darwin: Evolution, Design, and the Future of Faith* in 2007. He knew that religion offered something that people needed and he thought that trumpeting atheism without regard to that was almost cruel.

Kitcher's recent book, *Life After Faith: The Case for Secular Humanism*, appears to continue in that vein. I haven't read it yet so I'm not going to discuss it. I want instead to inquire after its starting point.

Why would anyone want to argue “the case for” an alternative to religion? In much the same way that almost all people born into a religion end up becoming members of that religion without actually evaluating the other religions, people don't “choose” to cease believing and become secular. Once that happens, people might “choose” to leave or stay in a religious tradition physically, but once the supernatural becomes unreal, that is the end of a certain kind of faith. At least that is what happened to me. (I know that there is a tradition of radical doubt within the religious traditions, which leads to crisis, but that is another matter. In a culture in which the supernatural is in question, doubt need not be experienced as crisis.)

So, why seem to argue against religion and for secular humanism? In his review of Kitcher's book in the New York Review, Adam Kirsch points out that “secular humanists have the duty to be evangelists.” That is how Kitcher and the others feel--evangelists against religion--and it is the wrong starting point. Since Kitcher has always said that faith is great for those who have it--something Christopher Hitchens could never admit—and since faith is not an option for those who don't, why argue at all? In other words, why should the nonaffiliated write about religion, other than as a resource for secular life?

Therefore, the subheading of Kitcher's book should have been “Life in Secular Humanism.” Kitcher knows this—in fact, the blurb on Amazon reads, “Although there is no shortage of recent books arguing against religion, few offer a positive alternative—how anyone might live a fulfilling life without the support of religious beliefs.”—so why does Philip still speak of argument? Why does he devote a chapter to vindicating doubt about religion and another to refined religion that does not espouse supernatural belief?

The answer is that Hallowed Secularism—or secular humanism—is hard. Criticizing religion is easy.

Philip Kitcher does not accept the responsibility of this hour. How do we now live, now that God is dead? It is a simple question. But the question haunted Nietzsche. I doubt that the answer to that question is any kind of humanism. Humans are not in control of reality.

It may be that among the nonaffiliated, the differences may finally have to be confronted, which the preoccupation with religion still prevents. For me, the category of the transcendent is the starting point. Phillip points out that the transcendent cannot function the way traditional religion does. Fair enough. But is the transcendent real? Does it teach humans something lasting about reality? If it is real, then it, not reason, is our proper starting point.

The holy does not disappear when one stops going to church, synagogue, mosque or temple. It just becomes harder to live by it.

Title: Taking a Break for Campaign Finance Reform

Date: 2015-04-16T05:25:00.004-04:00

4/16/2015—My responsibilities this year at Duquense Law School have been preventing me from traveling and speaking—and thinking, actually. But tomorrow, I take a break and head to Cleveland-Marshall Law School to speak at a symposium on campaign finance reform sponsored by the Cleveland State Law Review. The keynote speaker is Professor Larry Lessig, whose book, *Republic, Lost*, has achieved best-seller status. I will be proposing the counter-intuitive strategy of eliminating contribution limits as a way of restricting the super PACs. Without contribution limits, money would go to candidates—an enhancement of democracy—and legal independence of the super PACs would be gone. That independence is a function of enforcing contribution limits. I am hoping for an op-ed tomorrow in the Cleveland Plain Dealer.

Title: Campaign Finance Becomes an Issue

Date: 2015-04-20T05:13:00.000-04:00

4/20/2015—not two days back from Cleveland and campaign finance has become an issue—for the moment. As I told the Symposium audience on Friday, the simplest answer and most immediate answer is to eliminate caps on contributions. This would end the era of the super PACs. But the fact that Mike Huckabee has now proposed this—if he did before, I was not aware of it—is the problem. For the moment, Democrats and liberals oppose this change. If only a few of them switched on this, eliminating contribution limits would pass tomorrow. So, I asked them to act now. A few phone calls is all it would need and it would accomplish two things—first, put control back with the candidates and therefore with the voters. Right now, voters are told by candidates that they should not be held accountable for independent spending because they are not allowed to control it (which is technically true). Second, because disclosure requirements are strict for candidates, all the sources of money would be known. Actually, this is not even strictly necessary, since candidates themselves would be forced to disclose or pay the consequences. As I will show in an article for the Cleveland State Law Review, none of this is inconsistent with other reforms, such as public financing. No need to fix everything at once.

Title: Reform of Judaism

Date: 2015-04-22T04:20:00.000-04:00

4/22/2015—Considering Ayaan Hirsi Ali's book, *Heretic: Why Islam Needs A Reformation Now*, suggests the question of what other religious traditions need a reformation, from the point of former adherents, anyway. Hinduism on matters of caste? But hasn't that been worked on quite a bit? Christianity on gender and sexuality? But, again, the tradition is hard at work on these matters. No one I know has a problem with Buddhism.

But what about Judaism? Granted, it is a tiny religion—around fourteen million in the world, mostly in Israel and America. But, for whatever reason, Judaism has an outsized influence on world events. I am not speaking of a world Jewish conspiracy, but that old canard does show the impact that Jews have had.

What is the problem with Judaism? Ironically, it is the same as the root of the problem in Islam—the problem of the other. In Islam, it is an insistence that everyone become a Muslim, or at least an unclarity as to what it means theologically that someone is not a Muslim. In Judaism, it is the meaning of the goyim—of the non-Jews in world history.

Years ago, the Jewish thinker and founder of Jewish Reconstruction, Mordecai Kaplan, called for an end to the concept of chosenness—the idea that Jews are the people chosen by God to be the fulcrum point of world history. But Kaplan's call has had no effect.

Judaism traditionally teaches that the point of world history is what God has planned for the Jewish people. Eventually, the day is to come when the Jews are reinstated in Israel and the Kingdom of God will reign. The only suggestion I know of the role of the other nations at that future time is that all the nations will worship God on the hills of Jerusalem.

There are warnings in the Torah that Jews should be especially sensitive to the stranger—"you know the heart of the stranger, for you were strangers in the land of Egypt." And the book of Ruth places an immigrant at the center of Jewish history as the ancestor of King David.

But the horrible history of the Jewish people—exile and death followed by a threatened existence in the modern State of Israel—has hardened Jewish concern for the survival of the Jewish people above all other considerations. So, I never heard religious insistence—that is, in the synagogue—to be kind to the stranger in the sense of the non-Jew in Israel and the West Bank. Nor did I hear that Jerusalem should be shared so that the Muslims may also worship God on the hills of the city. (though, to be fair, the religious sites in Jerusalem are open to all religions, as they were not before 1967).

I am speaking here theologically. There are many Jews in Israel and outside working for peace. And there are many Jews, again in and out, who favor harsh polices out of a feeling of necessity and not out of prejudice against others, who would love not to be threatened. But in both cases, the feelings are essentially secular.

What is the religious meaning of the current situation? What does Judaism teach about the land of Israel and its native population? And its neighbors? Obviously some of the ancient traditions are not good—in the Old Testament, they were to be exterminated. But what about later teachings? I have never heard clear religious thinking here. That is what I mean by the need for a reformation in Judaism.

Title: Is Matter Enough? But What is Matter?

Date: 2015-04-25T05:52:00.004-04:00

Dyson concentrates on politics and what he calls Einstein's philosophy, by which he means "a general view of nature."

It is here that the usual disagreement between believers and nonbelievers (in orthodox religion) comes into play. Atheists and their fellow travelers like to say that we follow reason and evidence. It is a silly claim—like believers saying that they are good, I guess—but it is also incomprehensible, as Dyson shows. We have no idea what nature is like.

According to Dyson, Einstein's general view of reality "describes nature as a single layer of observable objects with strict causality governing their movements. If the state of affairs at the present time is precisely known, then the laws of nature allow the state at a future time to be precisely predicted. The uncertainty of our knowledge of the future arises only from the uncertainty of our knowledge of the past and present. I call this view of nature the classical philosophy, since all objects obey the laws of classical physics."

Einstein's view is that of most of the nonaffiliated. But ten years after Einstein worked this out, Niels Bohr, looking at quantum mechanics as understood by Werner Heisenberg and Erwin Schrodinger, described "the universe as consisting of two layers. The first layer is the classical world of Einstein, with objects that are directly observable but no longer predictable. They have become unpredictable because they are driven by events in the second layer that we cannot see. The second layer is the quantum world, with states that are not directly observable but obey simple laws. For example, the laws of the second layer decree that every particle travels along every possible path with a probability that depends in a simple way on the path." The two layers are connected by "probabilistic rules." The future in the first layer is in principle uncertain.

Bohr's understanding dominated the twentieth century and led to new sciences dominated by mathematical symmetries at the quantum level that were only approximate for the world we know. Both layers are real, but we don't understand their connection.

Today, however, a new generation of scientists reject Bohr's dualism. According to Dyson, these new scientists believe that only the quantum world exists and the classical world is an illusion brought about by a process called decoherence that erases many quantum effects.

Then Dyson gives this summary: "there are three ways to understand philosophically our observations of the physical universe. The classical philosophy of Einstein has everything in a single layer obeying classical laws, with quantum processes unexplained. The quantum-only philosophy has included everything in a single layer obeying quantum laws, with the astonishing solidity and uniqueness of the classical illusion unexplained. The dualistic philosophy gives reality impartially to the classical vision of Einstein and to the quantum vision of Bohr, with the details of the connection between the two layers unexplained. All three philosophies are tenable, and all three are incomplete. I prefer the dualistic philosophy because I give equal weight to the insights of Einstein and Bohr. I do not believe that the celestial harmonies discovered by Einstein are an accidental illusion."

Now this is a physicist writing, a Professor of Physics Emeritus at the Institute for Advanced Study in Princeton. So, I'm sure this account of our situation is accurate.

Most atheists know nothing of quantum theory. In a vague way, they assume Einstein's view. They can't be dualists because that would allow both this world and another world to be real, which would smell religious to them.

But that means, from the perspective of many scientists, atheists believe in an illusion—rather comically, precisely what they accuse religious people of believing.

Title: Choosing to be Good Without God

Date: 2015-05-04T05:00:00.004-04:00

5/4/2015—I had no idea that there had been a particular Christian response to the claim that atheists can be good without God. Last night I watched the beginning of *Time Changer*, a self-identified Christian movie from 2002. In the movie, a Professor at Grace Seminary in 1890 has written a book that argues that the Church should teach morality without attaching that teaching to the authority of Jesus Christ. Another Professor, who has seen where such teaching leads because his father invented a time machine, opposes Seminary endorsement of the book. To settle the matter, he sends the author into our future to see for himself. Not a great movie, but a great question. Satan does not oppose morality. Satan's enemy is Jesus Christ. People who suppose that if they are good people, they are going to heaven are in for a shock when they end up in hell. We do see today the decline in confidence about the good and all sorts of experiments are going forward to find a solid ground for making judgments. Sam Harris argues that science can show us what is good. Peter Singer is arguing in a recent book—*The Most Good You Can Do*—that reason leads us to what he calls effective altruism. And so forth. The problem is not deciding to do good. The social crisis is that doing the good becomes merely a personal choice. The decline is not in morality as much as it is in authority, just as the movie argues. So, the question is not what is good. The question is what is binding. Or, as Heidegger is translated—"what holds sway." Here is where many modern people have a problem—with any claim of authority.

Title: Iconic Picture of Burning Silliman Hall

Date: 2015-05-06T05:27:00.001-04:00

5/6/2015—This year is the 50th anniversary of the famous picture of Silliman Hall burning as a high school football game continues to be played between Mt. Herman and Deerfield Academy. So much of my life was formed at Mt. Herman that I have to mention here that this photo appeared in the New York Times today. Why today I have no idea. Mt. Hermon is a good reflection of the trends in society that led us to the secularized place we are now in America. When I went there from 1966-1970, it was still a very Christian school, but was subject to the buffeting of the 1960's. (The school and its sister school, Northfield, were founded by Dwight Lyman Moody, the great evangelist of the 1890's.) A little over 25 years later, when my older daughter graduated, it was still pretty religious, but very much interreligious, with a curriculum emphasizing the world's religions and their wisdom. But I'm not sure how long that phase lasted. By the time the son and younger daughter graduated, over the next 7 years, my impression is that the religious emphasis was fading under the influence of good works in the world: a sort of combination of psychology and ethics. I don't know much about what the school is like today. The story about the photo emphasizes that today, the football game would have been stopped—too much fear of a lawsuit or some safety danger. Undoubtedly that is true. Undoubtedly, a decline in society.

Title: Two Odd Things about the Shootings at the Cartoon Contest Last Week

Date: 2015-05-10T07:29:00.002-04:00

5/10/2015—Happy Mother's Day to all. A secular holiday if ever there was one. There were two odd things about the reactions to the shootings last week in which a police officer shot and killed two would-be terrorists obviously intent on killing people involved in the Mohammed cartoon contest. [I have no idea why authorities will not confirm this motive when it is so obvious. One of the two shooters reportedly had ties of some kind to radical Islamic movement and everyone knows that some Muslims believe it is proper to kill people who demean the Prophet by representing him visually. Anyway, why else would they be there with assault rifles—a Second Amendment display? Actually, that does make you wonder why the NRA did not protest the shootings. Surely it can't be a crime to carry assault weapons in Texas.] One oddity is the sudden love affair between conservative Christians and the First Amendment. Some years ago, when a crucifix was placed in a jar of urine, some of the same people were calling for an end to government funding for the arts. Now, I realize that ending funding and shooting people are quite different. And even then, no one thought the artist could be put in jail. I only mean that it is not inherently good to make fun of peoples' religious beliefs. Doing so is not something admirable. But this leads me to the second odd reaction—or rather silence. This is one of those "I don't agree with what you say, but I will defend to the death your right to say it." It is absolutely true that if there are people willing to kill others whose speech offends them, that speech absolutely must go forward, whether or not the speech is offensive. Otherwise, the criminals will decide what can be spoken in this society and we are no longer free. Where are my fellow first amendment fundamentalists on the left? I almost want to send money to the group that sponsors these cartoon contests. And I certainly want my tax money spent defending them. They are willing to risk their lives for the sake of speech. How many of us are willing to do that? And as for the fact that they are anti-Muslim—well at the moment, the only point they are making is that some Muslims believe that Islam is inconsistent with free speech. I believe the shootings make their point about that quite well.

5/12/2015—What is needed for secularism in America, and in the West generally, to flourish? By secularism, I refer, as I do in *Hallowed Secularism*, to that great movement of what could be called “unchurching” that leads to human life outside of religious myths and images. It is no longer unusual for young people in America to have never lived within the teachings, stories and calendar of any religion. That is something quite new. Almost all people my age in America grew up within a religion, usually some form of Christianity. And even among people in their forties today, that is the case. But, among people in their thirties and twenties, that trend changes. And this will continue to be the case, more and more. So, what is needed for religiously nonaffiliated people to live satisfying lives? To answer that, we must think about what religion does for people, even for people who no longer believe in the religion in which they were raised. Religion offers an orientation to reality. Religion answers the question, what is reality like at its deepest, most real level? Secularism needs to be able to offer answers to that question. Obviously, I am suggesting that secularism cannot do that now. Instead of serious attempts to grapple with the question of the nature of reality—of ontology—secularism currently offers a hodgepodge of materialism, positivism, naturalism, empiricism and rationalism. None of these orientations is really satisfactory, which will become clear once secularism moves away from bashing religion to attempting to ground human life. Thus, I turn to the philosopher Martin Heidegger for that orientation. I have been reading philosophy and religion with my teacher, Robert Taylor, since the early 1980’s. We started with a group that read Ludwig Wittgenstein’s *Philosophical Investigations* line by line for ten years. Robert and I studied a variety of philosophical and theological works after that, but recently we have been studying Heidegger’s great work, *Contributions to Philosophy*, an hour and a half in the morning, Monday through Thursday. It is slow going. Under Robert’s influence, I have begun to interpret Heidegger in a very religious way. Indeed, sometimes Heidegger seems to me to be retelling the Christian story in non-dogmatic terms. He writes of God and gods and seems to be referring to divinity itself—certainly he rejects the notion of a supreme being just as he finds the classical metaphysical tradition in general to be at an exhausted end. Divinity is what moves history. I have not been referring to this Heidegger study, but now I think that I must. Secularism needs Heidegger to set itself on some kind of ground. Gradually, in pieces, I want to explore what that might mean.

Title: Religion Trends in America

Date: 2015-05-13T05:25:00.005-04:00

5/13/2015—I suppose that I should be expected to be happy about the news reported yesterday by the Pew Research Center that the group of which I am a member, the religiously unaffiliated—the nones—is rapidly growing. But I'm not. The numbers are startling. As of 2014, the nonaffiliated are now 23% of the adult American population. (Presumably, the real percentage is even higher since this is self-reporting). Meanwhile, the percentage of self-identified Christians is 71%. Sounds high, but it was 81% just a few years ago and 90% if I remember correctly in 1963. Well, what of it? My concern is with the future of American life. We forget that, according to the sociologist Robert Putnam—the Bowling Alone guy—going to church is one of those aspects of social capital that help wealthier people live better lives and help their children advance—along with other things, like getting and staying married. Today, if people are not going to some kind of church, chances are that their kids are not going to do well. We don't think of things this way, of course. But having a church is like any other part of a rich social life. Not having one is not just a declaration of independence from God. It is also cutting one more social tie in life. One more depressing fact, from Frank Bruni in today's New York Times—the percentage of Americans who believe the country is on the wrong track is higher than ever: 62% to 28%. This trend has continued uninterrupted for the past ten years. Now of course, there is a sense that we are on the wrong track; by almost any measure the trends are bad for America. But since America is also doing pretty well today by any world standard and much better than we have been since the 2008 economic crisis, you would think the surveys would at least show improvement. But they do not. Is that because religion is also a source of optimism about the future and America is less religious? America is going to continue to get less religious: 35% of the millennials are unaffiliated. Real Christian commitment is already pretty rare—I noticed last week that many Catholics mistake references at a Catholic funeral to resurrection with references to heaven, for example. There is no point bemoaning this. But if declining religion is not going to mean declining everything else, nonaffiliation is going to have to be translated into new affiliation. I don't know what social forms that will take. But I do know that nonreligious life is going to have to be social and have substantive content—a story if you will about the nature of reality. A story from which to live.

Title: Philip Kitcher's Life After Faith Attacks Transcendence

Date: 2015-05-16T06:23:00.004-04:00

5/16/2015—Philip Kitcher should have written the book that transforms secularism. The book he did write, *Life After Faith: The Case for Secular Humanism*, does not appear to be that book. I'm in the midst of it and having trouble finishing it because it's sort of boring. As I expected from the book reviews, there is too much attacking religion. The book is supposed to be about life after faith, not about why people leave religious faith. The case against religion is not important and has certainly been done to death. (It's not important because people don't leave religious traditions because of arguments and, anyway, why should anyone try to get people to leave religious traditions?) But I am struck by how Philip (I'm trying out first names in an attempt to promote human solidarity) defines the basic terms of the religion/secular divide. On page 6, in the setup, he writes that secularism (I hate the term secular humanism—the point is the truth of reality of which humans are just a part, not the whole thing) demands of religion a reply to only one question—“[t]he core of secularist doubt is skepticism about anything ‘transcendent.’” Philip describes the transcendent as “something beyond the physical, organic, human world... .” Now, leaving aside human world—if Philip means materialism, why not just say so?—obviously, love and music are beyond the “physical, organic.” Or, maybe later in the book, Philip will explain how all of existence is rooted in the physical, which it is, but humans do not yet understand the connections. Think of the brain and consciousness. But I don't think Philip is going in that direction. He also writes a revealing additional description of transcendence in relation to Christian resurrection—“there was no abrogation of normal physical and organic processes.” Well, OK. But a very different claim. Somewhere I have written—probably more than once—the world is all there is, but there is more to the world than meets the eye. If all it means to be secular is not to believe in things that violate scientific laws as we know them, a lot of religion remains quite safe. Wittgenstein (not using Ludwig) answered Philip years ago in two observations about early tribes—their religions told many stories, but not that enemies' heads exploded during battles and when they carved weapons, they did so with exactness and not by myth. In other words, early man did not abrogate the laws of science. There remains a great big mysterious world of otherness out there without denying anything scientific.

Title: Where Is the Democratic Party Leadership on Trade?

Date: 2015-05-18T05:57:00.004-04:00

5/18/2015—I thought pandering to the base was a Republican Party monopoly. Apparently not. Specifically, where is Paul Krugman on the Trans-Pacific Partnership—the Trade Deal? In his op-eds, Krugman is pro-free trade. But he has been mostly silent on the opposition in the Senate by Democrats to the TPP. I had thought that Krugman was afraid to say he supports the deal because Democratic Party sentiment is against it. Turns out, if you read his blog, he mildly opposes the deal and does not think it that important. He says it is not really a trade deal. But there is a larger point here. The New York Times today ran a story about a closed refrigerator plant in Galesburg, Illinois that Barack Obama had noted in his 2004 Democratic National Convention speech. It's still closed. The workers are still out of work or underemployed. In other words, the argument is not just over this trade deal, but still over the NAFTA. On this issue, Krugman originally supported free trade, rather strongly, but in the telling by William Greider in the Nation in 2013, Krugman has since pulled back in his support. Look, I don't know about trade. I assume that it is generally a very good thing. And even closed factories in the US would probably have closed anyway, free trade or no. But I can be persuaded by a real debate. But what is needed is that real debate within the Democratic Party—and we are not having it. Right now, there is less discussion of the trade issue in the Democratic Party than over global warming in the Republican Party. Why am I reading about trade in Krugman's blog and not in his columns? It ought to be possible to decide whether the NAFTA was overall a good thing for America or not. This absence of discussion is more indication of the sickness within our political life than the partisan gridlock in Washington.

Title: Martin Heidegger's Humanism

Date: 2015-05-19T05:19:00.001-04:00

5/19/2015—Well, that title is certainly misleading. Heidegger made clear that he was not a part of humanism in the Letter on Humanism. Every humanism is grounded in metaphysics that Heidegger was trying to overcome. But yesterday, in reading Heidegger's Contributions to Philosophy, I came across indications of the place of the human being that I could only call humanism. The terms will be strange upon first hearing them. The subtitle of Contributions is Of the Event. The event is that which appropriates the human being. (You could return to the statement in Introduction to Metaphysics—the human being is that being for whom being is an issue). Heidegger writes often of the gods or the god. You could hear divinity. But you could also hear history. Creativity. Holiness. Significance. Heidegger places the Supreme Being of Christian and Jewish thought in the tradition of metaphysics. So he is not speaking of a being when he speaks of God. Here are the two sentences that struck me. “[The fissure of being] can come into question only if the truth of being as event lights up, specifically as that of which the god has need in such a way that the human being belongs intrinsically to the event.” “The appropriating event conveys god to the human being, even while it assigns the human being to god.” In some way, Heidegger sees being as between the human being and the god. The point for me is not just that the human being is claimed—Heidegger would write that expressly in the Letter on Humanism. The point for me is that the god needs the claimed human being. This is not a recapitulation of Christian thought, though it evokes Christian thought. It is an essential task of humans. God—the call of what is essential here and now—comes to us and we are thereby claimed. This is a way to think human life that could be called religious, though Heidegger would point out that such universalisms are metaphysical. This thinking calls forth a credible way of life outside the usual categories of religion and nonaffiliation. There is something important for humans to be.

Title: Finally, a Krugman Column on the Trade Pact

Date: 2015-05-23T16:43:00.000-04:00

5/23/2015—Well, I finally got the op-ed from Paul Krugman on the proposed trade pact (the Trans-Pacific Partnership—TPP) that I have been waiting for. The column appeared Friday. If you read the column really carefully, Krugman is, as he has said in his blog, mildly opposed. But it is a mealy-mouthed opposition. There are reasonable people on both sides, he says. Krugman ends up writing mostly about how the Obama Administration has not been forthright. The President has not made the case etc. It's not really about trade, it's about intellectual property—as if protecting property rights is not an aspect of free trade. Krugman even seems to say that free trade is no longer important—because we have already realized most of the available benefits by generally lowering tariffs. But this is a real sleight of hand. Many of the opponents of the TPP are opposed to free trade. They believe that we would be better off with tariffs and other trade barriers. If they are wrong about that, shouldn't Krugman have said so? Krugman wants the issue to be technical and narrow. But it is not. The Democratic Party is turning against trade. Krugman disagrees with this new thrust. Why does he not say so?

Title: The Future of the Roman Catholic Church

Date: 2015-05-25T07:09:00.003-04:00

5/25/2015—It is a mark of the richness of the Roman Catholic Church that two men who have recently been beatified, and one now a saint, had conflicts with each other when they lived. I'm speaking of Archbishop Oscar Romero and John Paul II. I am no expert in these matters. The story of the Pope's concern about communism and Marxism in Central and South America leading him to blindness concerning the death squads and oppression in some of these countries, notably El Salvador, where Archbishop Romero was murdered, is well known. On the other hand, there are those who argue that the story is largely a myth. You could look at Filip Mazurczak's piece from February 2015 to see this other side. I am most interested, however, not in the conflict, but in how the Church could respond so well to the needs of the time in these disparate areas of the globe. JP II was needed in Poland. His stance against the inhuman oppression of communism will stand forever in the annals of human rights. But liberation theology and the stance of the Church with the poor against overwhelming economic and military power, symbolized by Romero, was also needed then and is needed today in the face of global capitalism. The Church is able to respond to both. Can this be said of any other institution in the world today? This brings me to Ireland. The media is reporting the very welcome news of Ireland's endorsement of gay marriage as a defeat for the Church. And I suppose you could say that. The Church spends a lot of time and effort opposing gay marriage. But the stories only obliquely refer to the illegality of abortion in Ireland. This matter, a crucial matter, a matter of life and death apparently finds no similar cultural change. Perhaps it is not a decline of the Church. Perhaps the Church is simply wrong about gay marriage.

Title: Krugman on the Economics of the Average American

Date: 2015-05-30T06:03:00.001-04:00

5/30/2015—Since I have been so critical of Paul Krugman on trade, it seems fair to acknowledge his importance in reminding American policy-makers—or even just the comfortable top 25%—of the reality of life for everybody else. He has done this before, but he did it again in yesterday's New York Times, in a column entitled The Insecure American. Krugman is giving a kind of overview of a new Federal Reserve Study on the financial well-being of American households. He writes specifically that he “hope[s]” readers will not find any of his statistics surprising, but Krugman is plainly worried that well-off people have forgotten what life is like. Krugman begins with conservative bashing—not from the study, of course. Three quarters of those who self-identify as conservatives think the poor have it easy because of government benefits. Do you know anybody like this? I don't. Instead, people I know—and this would be true not only of conservatives but of most people—would say it is hard to be poor. But we have no idea how hard it is. Just watching people taking two buses at 5:15 a.m. to get to a job while dropping children off at daycare—and those are healthy, young people with jobs. Seeing them you think, how do they do this every day? Don't blame conservatives for our obtuseness. Krugman makes three major points. First, life expectancy has not risen much at all for the bottom half—so don't raise the retirement age for social security. Second, social security provides almost all the income for 25% of Americans over 65—so don't cut benefits. Third—life is precarious for the bottom half, so don't cut entitlements for anybody. Krugman is shocked by one finding in particular—47% of Americans report that they would not have the resources to meet an unexpected expense of \$400. “\$400!” he writes. This reaction reminded me of a scene from a documentary about public defenders that I watched last week. In an opening scene, a young African-American lawyer despairs because she has worked a deal for pre-trial diversion for a young client accused of some minor crime—shoplifting? Charges dropped if he goes to a program and stays out of trouble for a year. But the condition of the program is that he be out on bail and he and his family never are able to find the money--\$500? So, he is probably going to jail, which will change the rest of his life utterly. Moral of the story—we should be thankful if life is not utterly hard. We should be generous in spirit toward those for whom it is. We should not be so concerned about other political issues that pure class issues escape us. The political left has so forgotten this last point.

Title: How to be Spiritual but not Religious

Date: 2015-06-01T05:50:00.003-04:00

6/1/2015—It is beginning to dawn on people that this nonreligion thing is going to be difficult. Hence Molly Worthen's piece in the New York Times yesterday entitled Wanted: A Theology of Atheism. The idea is to get away from the "ill-tempered nihilists" image, says Worthen. Well, actually no. The goal is to get away from the "good without God" self-confidence. The need is not, as Worthen believes, for "a confident humanist moral philosophy." It is the opposite. Finally, nonbelievers must come to see how bereft humanism is. Humanism is just as implausible as theism. That should be the starting point. Then, maybe we could get somewhere.

Title: Secularization in Greece and Turkey

Date: 2015-06-16T03:28:00.000-04:00

6/16/2015—I'm just back from a visit to Greece and Turkey. I was exposed not to young people as much as to the generation of my children. And even there, to people from Istanbul, rather than from more rural areas, which makes a difference. Nevertheless, it is clear that secularization is continuing to make tremendous inroads in these two countries. The phenomenon is not the same in each country. In Greece, matters are similar to the United States. People leave religion and do not give the matter of religion much thought. That is not possible in Turkey, where Islam is a dominating presence and the entire country is organized around the Islamic calendar and practices. (A revealing detail is that our hotel did not serve bacon at breakfast, even though many foreigners stayed there). So, secularization in Turkey occurs among people who were raised in Islam and take much of its teaching seriously. Just few of its practices. In both countries, however, the issue of the future remains open. One way to think about this is as a question of the source of values. More deeply, however, is the question of whether values are real and important. Nihilism asks the question, what's the use? A secular civilization must have a way of addressing that question. So far, neither Greece nor Turkey has successfully come to terms with this problem. The way this plays out is that in Greece, the ancient sites are simply archeological curiosities with historical significance. In Turkey, however, the spiritual power of religious spaces is openly and unself-consciously acknowledged. This makes a visit to Turkey satisfying in a way that a visit to Greece is not—or, at least not to me. Turkey is a country that will be very important to the future of world events. The roots of democracy and liberty are very deep. They are not a function of a westernized elite. Turkey is the place where a new public role for Islam will be worked out.

Title: The End of Rawls

Date: 2015-06-18T03:49:00.003-04:00

6/18/2015—The Duquesne Law Library kindly forwarded to me a recently published book edited by Martha Nussbaum and Thom Brooks, which presents a series of essays on John Rawls' book, *Political Liberalism*. (It's called *Rawls's Political Liberalism*). I tried to read Nussbaum's introduction, and I really must, but I couldn't. Rawls has been around since the 1970's and since that time, liberals like Nussbaum have tried to convince themselves that a stable, reasonable, secular world can be built around him. But it is just not the case. Rawls is not the future. The basic problem is one of truth. Rawls does not want the liberal state to take a position on the nature of a good life because people disagree. But there is no getting around some actual value commitments in political life. The pressure of normative life gives to Rawls a feeling of result oriented jerry rigging, as when he famously viewed the pro-life position as outside legitimate liberal political life. Rawls gets to decide which comprehensive doctrines are "reasonable" and it always seems that they are the ones he does not disagree with too much. But I stopped reading the Introduction when Nussbaum suggested that Judaism is more rational and regards autonomy more than does Christianity. And then she cites the Oven of Aknai story as proof—it is not in heaven. Does she not realize that the Oven of Aknai story is about the overwhelming power of the rabbis to squelch dissent? It is the opposite of the rational account Nussbaum and other liberal Jews like to tell themselves. The lone dissenter is excommunicated. And while it is true that the story states that God cannot intervene in disputes between scholars, nothing in the story suggests that the winning side was actually more rational than the dissenter. They just had the votes. Judaism is rabbinic, not rational and is not dedicated to autonomy. That is why there are chief rabbis and why the rabbinate in Israel decides matters of family law. You can call rabbis making rulings rational if you want, but the legal reasoning is just the same as in Christianity or Islam. And just as hierarchical. The problem we liberals have is that we lack a foundation. We distrust religion—Jews attempt to distinguish Judaism, as Nussbaum did—because we reject the authority of truth. Hence Rawls' proceduralism. But how do you sustain human life this way?

Title: The Democrats Are Wrong on Trade

Date: 2015-06-20T07:03:00.001-04:00

6/20/2015—I don't mean the Democrats are necessarily wrong on the details of the Trans-Pacific Partnership trade deal, which I don't know much about. But the rejection of the trade agreement by House Democrats last week was not about this particular agreement. It was about the benefits of trade in general. This is where the failure of leadership by Paul Krugman and people like him has been so glaring. The economy is a dynamic system. The dynamism of that system has benefited the US. Yes, a lot of those benefits have gone to the top .001%, but not all. And even if redistribution is the goal, a growing pie is easier to redistribute than a stagnant one. Protectionism is part of a general retreat by Democrats from growth and a better future. It says that we have a certain number of good jobs and we have to do everything to keep them. In the end, this hurts most workers. It's the old story of trying to retain the carriage industry when cars came out. The irony is that jobs were already coming back to the US. We're an economy that does not really need protectionism because of our dynamism. It is an empirical question whether the US economy benefits from freer trade or not. My impression is that the evidence is clear that we do benefit. A lot. So, where is the strong defense of free trade by people like Krugman? So, I don't know much about this agreement. On the other hand, if it does protect intellectual property from government confiscation, isn't that a good thing when many governments do not respect property rights at all? And if the agreement is as much about the politics of Asia—keeping a peaceful counterweight to China—well, isn't that a good thing as well? Anyway, Democratic opposition to this trade deal was mostly about latent opposition to NAFTA. And that opposition is a mistake. Trade in general is the issue. And trade in general is good.

Title: The Supreme Court's Week

Date: 2015-06-27T06:04:00.003-04:00

6/27/2015—This blog has been off and on during June because of travelling. But coming this week, Hallowed Secularism will be back to a normal 2-3 posts a week schedule. The Supreme Court has a big week, upholding Obamacare once again and enacting national same sex marriage. Given my long time support for both, it may surprise people that I have very mixed feelings about these decisions. Basically, the decisions are not very convincing. In *King v. Burwell*, the Obamacare case, Chief Justice Roberts' majority opinion admitted that the dissenting arguments were strong. They were. The decision can be defended, but only on the ground that the Act could not really mean what it said, which is not a persuasive basis for an opinion. In *Obergefell v. Hodges*, the Court fortunately rested on the fundamentality of marriage, but there is no reason to think of gay marriage as itself a fundamental right—something that had not been dreamed of only a few years ago. In terms of gay marriage, there was always a two-prong possibility—politics or rights. The advantage of politics, in which states legalized gay marriage one by one over time—is that the opponents would feel they had a say and that compromises could be worked out with religious believers who continue to maintain that gay marriage is sinful. Holding gay marriage to be a right means that no compromises are likely. This means that gay marriage will now become a wedge to pursue religious institutions that refuse to adhere to the new right. Law is supposed to bring harmony, not further controversy.

Title: None

Date: 2015-07-01T17:27:00.002-04:00

7/1/2015—John McGinnis, Professor of Constitutional Law at Northwestern Law School, and the author of the book, *Originalism and the Good Constitution*, wrote a piece last week in *City Journal* commenting on Chief Justice John Roberts decision in *King v. Burwell*. Based in part on the work of St. John's law professor Mark Movsesian, McGinnis criticized the method of statutory interpretation that allowed Chief Justice Roberts, and the majority, to uphold subsidies on the federal Obamacare website despite language in the statute suggesting that such subsidies are only available on websites created by the states. Chief Justice Roberts was using a method of statutory interpretation that looks to the purpose of the statute and adjusts interpretation accordingly. Now, one can criticize Chief Justice Roberts on the ground that he got the purpose of the statute wrong or even that the hodgepodge of the Obamacare statute should not be considered to have a purpose. But McGinnis does not rest with arguing that Robert's got this particular instance of statutory interpretation wrong. McGinnis argues more generally, relying here on Professor Movsesian, that since federal legislation "is a product of 535 legislators plus the president" interpretation by purpose is inappropriate for a statute: "It's hard to distill an overriding intent or purpose from such a collection of wills..." McGinnis and Movsesian seem very close here to denying the intelligibility of collective work. For them, there is no rationality, there is only will. They have been infected by the ideology of the market, in which people have desires and nothing more can really be said about them. The person with whom they may be said to be in agreement is Margaret Thatcher, who famously said "there is no such thing as society. There are individual men and women, and there are families." In keeping with the spirit of individualism, McGinnis judges methods of statutory interpretation by how much they favor the ends of progressives, as opposed to those of conservatives. But there is much more at stake in the denial of intelligibility than the outcome of this or that political issue.

Title: Can God Do a New Thing?

Date: 2015-07-04T07:50:00.001-04:00

7/4/2015—This may seem a strange question for a hallowed secularism blog, but it is the gay marriage question. A controversy has broken out on a law and religion listserve about the view of the New Testament on gay marriage. Or on marriage generally. But this controversy goes beyond law. It is the basis for most of the opposition to gay marriage in America today—or a lot of it. One has to start with the acknowledgment that Jesus would have been horrified by the prospect of gay marriage. Of course he would, because such relations were unclean under the Old Testament purity code. But so was, most particularly, eating ham. Or not being circumcised. The purity code was plainly abolished by God when Peter appealed to it in the Book of Acts. “What God has made pure, you must not call unholy”—or in the underlying Hebrew terms, what God has made kosher, you must not call treif. The gentiles—today Christians—who condemn gay marriage do not understand that they themselves were regarded as unholy by the purity code and by Jesus--"It is not right to take the children's bread and toss it to their dogs."--until Jesus himself learned the lesson that Peter had to relearn after Jesus' death. That code is no more. So the only Gospel question about gay marriage is whether God has made it kosher. Even to a nonaffiliated former practitioner like myself, it is clear that God has done a mighty act, has broken down a new barrier. But it is as hard for some religious people to accept that God does a new thing, as it was to many Jews in Jesus' day to imagine that gentiles were now included in the Kingdom of God.

Title: Mark Greif Says We Can No Longer Ask, What is Man?

Date: 2015-07-10T06:05:00.001-04:00

7/10/2015—In a really depressing demonstration of how trivial the concerns of our time have become, Mark Greif—a teacher at the New School, co-founder of n+1, and the author of *Against Exercise*, a supposedly important essay in 2005 (actually just a goof)—has written *The Age of the Crisis of Man: Thought and Fiction in America, 1933-1973*. Greif's thesis is that writers during this period—for example, Niebuhr, Mumsford, Sartre, Arendt, etc—asked, in light of the Holocaust and Hiroshima and the bomb, about the nature of man and that this discourse now appears “tedious” and “unhelpful.” “For a variety of reasons, we are more likely to identify (and, as we like to say, to celebrate) the differences among human beings than to corral them into some hortatory category like ‘universal man.’” (quotes selected by Christopher Bentley in the *New York Review*). So, the theme of universal man is unmasked as colonialism and sexism and we now include people of color, women, gays etc. (I won't ask who this “we” is if no conglomerations are possible. Or, is it now groups we are supposed to ask after?) And what are we supposed to ask now? Not any attempt “to reopen a fundamental philosophical anthropology” but “Answer, rather, the practical matters, concrete questions of value not requiring ‘who we are’ distinct from what we say and do and find the immediate actions necessary to achieve an aim.” So now we are utilitarian and it does not occur to Greif that he has asserted, unquestioningly, that man is the sort of being who lives to achieve an aim. But is man the kind of being who lives to achieve an aim? Or is man becoming the kind of being for whom all aims now seem pointless? It turns out that it is not the question what is man? that is unhelpful, but prematurely arriving at an answer. For Greif's warning is against “preprogrammed” answers to any such questioning. Greif just does not believe anyone can ask the question of man and keep the question open. I guess Greif does not know Heidegger. I am willing to assert that the question of man, properly framed to move away from anthropology to ontology, is the only question worth asking, for it leads to all other questions. The question is not what is man but who is man and it certainly can open by asking Who am I? Without this fundamental questioning, all other investigations, such as how to stop global warming, are boring. I cannot ask about the world if I have never asked about the human being's responsibility for the world. And that fundamental question of responsibility is not aided very much by dividing it up into the woman's responsibility for the world, the gay person's responsibility, the responsibility of people of color, that of rich white people and so forth. Looking at matters in this latter way is comical as a starting point, however important such political/economic questions can become as the discourse unfolds.

Title: Good News Tuesday

Date: 2015-07-14T05:07:00.002-04:00

7/14/2015—Woke up today to the news that agreement has been reached on loans to Greece and an Iranian nuclear deal. The world is a little better today. Not altogether better. Greece did not get much debt relief, which it needs eventually. But it would be bad at this point for the Euro zone to fracture. As for Iran, the Republican Congress will not agree to the deal. But that is OK. Netanyahu opposes any deal with Iran. But he is wrong. Even in terms of Israel's interests. Eventually, the American electorate will choose peace and not war. I just hope Clinton runs on the deal. As for Greece, apparently Krugman was wrong. A deal for them is better than an exit in their view. Well there is always time to leave if the economy does not pick up. A good day all around and better than most alternatives.

Title: Religions that Promise Us Death and War

Date: 2015-07-18T06:37:00.002-04:00

7/18/2015—I have written before about the death of Islam. It is easy to see that Islam will go down the path that Christianity did in Europe after the wars of religion following the Reformation. For what do we see? The more religious you are, the more violent you are. This can be seen in the lone gunman who kills marines in Tennessee. But the violence is almost as clear in the Saudi Arabian diplomatic cables that put opposition to the Shia sect in Iran above even humanitarian aid. All in the name of purified Islam. Who needs this? But now we see the same thing in Judaism. The Aipac organization is opposing the deal with Iran and, of course, Israel does too. The more Jewish you are, the more likely you are to oppose the deal. Israel's version of security lacks any real commitment to the humanity of its foes. You see this in the way Arab citizens of Israel are treated. You see this in the way Iran is portrayed. Demonized. I don't know whether President Obama is skilled enough to sell the deal to the nation. But Roger Cohen's column today in the New York Times is how a lot of young people will see it—the alternative to the deal is war and an actual Iranian bomb. And these young people will see that religion, in this case Judaism, kills. And you can see this in India, too, in Hinduism's political expression. The more religion, the more hatred. But what do we see in Roman Catholicism? Pope Francis. What do we see in Buddhism? The Dalai Lama. They have their blind spots too. But it isn't always the more religion, the less humaneness. If religion has a future, they are it.

Title: A Great President

Date: 2015-07-21T13:56:00.003-04:00

7/21/2015—It is time to give President Barack Obama his due. He really has improved things for America and the world. The four major items of accomplishment are: medical insurance for many of the uninsured, the reopening of diplomatic relations with Cuba, the Iranian deal and coming out of the 2008 recession. As for Obamacare, this has been a goal of progressives since the New Deal. The program could be better but it is done. And it has had a major effect on the life of poor and working class people. That effect will only grow. As for Cuba, this move has improved US relations with Latin America more than any action since the Panama Canal Treaty, for which President Carter never gets enough credit. The move should have been made years ago. If the Iran deal prevents Iran obtaining a nuclear weapon for 10 years, it should count as a major achievement. And there is the potential for even a greater payoff. Within those ten years, the deal may change the nature of the regime. Finally, I cannot say I am ecstatic with the state of the economy—with its 5.3% unemployment and low participation rate and too much part-time work—but have you looked around the world? Obama's opponents would have moved us down the path of Europe. I would add other matters as well. I am committed to free trade and believe the potential Asia trade pact will be helpful. Some kind of peaceful counterweight to China is needed. There are a number of areas where Obama has clearly failed. The worst misstep was promising action against the Syrian regime and not acting. But in general no clear policy with regard to the Arab world, China and Russia. But Obama is a cautious man. No clear policy is better than a bad one.

Title: Why a Jew Invented Hallowed Secularism

Date: 2015-07-22T06:20:00.001-04:00

7/22/2015—If you look on page 7 of the book *Hallowed Secularism* you will see the reference to E.L. Doctorow's 2000 novel, *City of God*. Doctorow invented the term hallowed secularism in that novel. Doctorow died yesterday and I thought it appropriate to think about him and the kind of religion that could bring forth such an idea. In the novel, a very liberal rabbi, Sarah Blumenthal, is struggling with the Jewish tradition. Her synagogue is called the "Synagogue of Evolutionary Judaism." Sarah wants to maintain a universal ethics "in its numinousness". That term refers to the sense humans have of the tremendous mystery of existence. Something more. Sarah wants to answer, yes. God can be seen as something evolving. The teleology of humanity, which we pursue without even always realizing it, has given "one substantive indication of itself—that we, as human beings, live in moral consequence." Realizing this is the potential of hallowed secularism. I used to think of this as mere humanism, but it is not that. Instead, there is a reality apart from just us, though we are a part of that reality. We relate to that reality. Doctorow was born in 1931. A baby through the Depression. Ten at WWII. Drafted during the 1950's. His first novel was published in 1960. So Doctorow was Jewish to his core, but was part of the last Jewish American generation that could think religion without primarily thinking the holocaust. He was as liberal as could be. But he was always a religious thinker. Politically, there was something European about him. According to the NY Times obit, he described himself as part of the "pragmatic social democratic left." (This might be how my hero, the late Tony Judt, might have described himself). Doctorow must have viewed Judaism as closer to the universal element that is real and universal, without the fantastic elements he could not believe. This was leading him toward something wholly secular, but not simplistically materialistic. We need the holy, he was reminding us.

Title: The Power of Choice

Date: 2015-07-29T05:38:00.002-04:00

7/29/2015—Maria Russo, the editor of the children’s books for the New York Times Book Review, wrote a penetrating indictment of our culture in the Book Review last Sunday. She was writing about the newly discovered Dr. Seuss book, *What Pet Should I Get?*. The book is ok by the standards of Theodor Seuss Geisel and was just about ready for publication. But it was never published. The question is, why? The official explanation given is that, at the time, Seuss was so busy that he forgot this one. That does not ring true to Russo—or any other author, frankly. Russo’s explanation is that the content of the book—2 children trying to decide which pet to get in a pet store, led Seuss away from dog and cat to imaginative animals. This, she believes led him to write *One Fish, Two Fish, Red Fish, Blue Fish*, which has many of the same elements, but has moved away from the context of commercial choice into pure imagination. Seuss “ran... away from the pressurized of money and responsibility... .” Choice is the rubric of our day. It is the foundation of both capitalism and individual rights theory—loss of choice is why jail is a punishment. Choice is human autonomy and free will. But choice is also not-imagination. It is the opposite of play and lies always in the realm of what already is. Choice is not transformative, except maybe in exposing my surrender to my context, as in *Sophie’s Choice*. Thus choice is also the opposite of itself. I am choosing among choices I did not necessarily choose. Russo is showing us that the current world is unimaginative. Seuss was too imaginative to live in it.

Title: What We Can Learn from Fifty Shades of Grey

Date: 2015-08-01T12:55:00.001-04:00

8/1/2015 – – I finally saw the movie, Fifty Shades of Gray. I do not usually address gender issues, but three comments do occur to me. First, the movie is a lot of fun. Sexy and entertaining. Fortunately, the movie ends with Anastasia finally understanding how sick Christian Grey is. All that talk about safety and exploring one's sexuality dissolves at the end of the movie into a male character simply wishing to inflict pain. The unanswerable question, why do you want to see me like this?, exposes this creep as the abusing loser that he is. Second, Jamie Dornan is not exactly a commanding male presence. And, indeed, as presented in the movie at least, he is needy and confused. He is just rich, not impressive, and not confident. For an object lesson in what Christian Grey should have been like, just rewatch the opening appearance of Clark Gable in *Gone with the Wind*. Third, and most important, the success of the book and of the movie shows that many women like to fantasize about being controlled by a man. Throughout the movie, Anastasia is quite content to be passive. And, if the demands on her had not become so extreme, she probably would have continued going along with them. The revealing moment occurred when she asked, are you going to make love to me? It was all up to man. The secret life of the fantasies of women is their own business, of course. And it is also the case that some portion of the women reading the book or watching the movie feel that reality and fantasy should not be mixed. But what does the success of this book and movie tell us about the gender equality on campus and about sexual assault? If there are women who desire male forcefulness and initiation, then some of the campus initiatives are bound to fail. Years ago, one of the classic feminists—I don't remember which one—made the point that secret fantasies are not public policy. This is of course true and date rape has nothing to do with sexy games. Nevertheless, this movie reminds us that men and women are to a certain extent different. And that difference does not submit itself to the standards of what it ought to be.

Title: What Is a Religious War?

Date: 2015-08-06T08:58:00.002-04:00

8/6/2015—It was pointed out to me by a friend that the framers of our constitutional system feared, above all things, the sort of religious war that had beset Europe from 1524 to 1648 A.D. America has largely been spared this sort of Catholic – Protestant warfare that the framers had in mind. This is so despite some real anti-Catholic discrimination at various times in American history. But let my friend suggested is that we now have a different kind of religious war going on. On the one side, there is a conservative religious alliance with capitalism. On the other, there is a kind of left wing anarchism. This is his rough approximation of the Republican Democratic split in the United States today. I'm not sure that his description is entirely correct. But his basic insight that the division in the United States is all-encompassing and does not seem to respond to particular issue analysis seems apt. Simply put, we are divided not for a particular reason but simply because we are in two separate blocs. I'm reminded of this because of the reception of the Iranian nuclear deal. I was very surprised that a majority of Americans do not support the deal. After all, the alternative is war at some point, as president Obama stated yesterday. I am pretty sure that a majority of Americans will support the deal. At the moment, however, the deal is following prey to this split. Almost all Republican oppose it. Therefore, if only a few Democrats also oppose the deal, the deal fails in Congress. The question becomes how to heal a split that is only in part based on policy differences? I don't know the answer to that. The wars of religion in Europe only ended when Europe became exhausted.

Title: The Need for Forgiveness

Date: 2015-08-09T16:59:00.002-04:00

8/9/2015—I was reading today in the Pittsburgh Catholic newspaper a short story about how Pope Francis is urging Catholics to go to confession, which is a practice that has gone out-of-favor in many parts of the Roman Catholic world. It was interesting to me the reason that Pope Francis gave for why he believes people are staying away from confession. Pope Francis believes that people are ashamed of what they had done. The question is whether non-religiously observant people have a need for forgiveness and how that need might be satisfied. The emphasis by Pope Francis on shame answers one objection from the nonreligious world. Pope Francis is not particularly concerned, apparently, with getting people to confess so-called sins, such as loving gay relationships, which particular Catholics do not believe are sinful. Obviously, although it is true that a gay Catholic would not feel the need to go to confession about such a relationship, the reason would not be shame. The reason would be that there is nothing to confess. Pope Francis is concerned about something else entirely, something that we tend to forget. We do bad things. We do bad things all the time. The bad things that we do all the time are inexcusable. We hurt the ones we love all the time. And we lack concern for those whom we do not know all the time. Now, how is a person to deal with such a circumstance? From Pope Francis's perspective, such a person, which is all of us, goes to confession, confronts the evil, his own evil, and is forgiven. But the structure of this particular forgiveness – – Pope Francis says that the confessing person does not confront angry judgment but a forgiving merciful father – – is not without a norm. Yes, I am forgiven for doing wrong, but I am drawn to acknowledge that I have done wrong. Even though I am likely to repeat the wrong, and even though I will be forgiven again, and even though I know that is the case, I still must admit in confession that I have done something wrong. It is this very characteristic, that is, the admission of wrongdoing, that I find utterly lacking outside the religious communities. The inability to acknowledge our own wrongs is killing us. It is a part of the great falseness and lie that seem to be at the heart of American life.

Title: No Religious Right to Refuse Government Service

Date: 2015-08-15T07:54:00.000-04:00

8/15/2015--Word comes now of the refusal of a Kentucky clerk to issue a gay wedding license for "religious reasons." Reportedly a handful of county clerks are refusing to obey a court order to issue the licenses. This will all sort itself out soon enough. We are still a nation of law even though we now know that law is arbitrarily man made. Aside from the obedience to law aspect, this episode is one of a number of religious conscience cases. A few days ago, a Colorado court ruled against a baker who refused to bake a wedding cake. Here's the thing. Principle should go out the window here. The country is split over gay marriage still and we should leave small businesses alone who don't want to serve gay weddings. I say that even though there used to be racists who would do the same thing. This case is different because major religions did not teach racism. Do supporters of gay marriage want religious martyrs? I say this as one such supporter who does not. But, as the group of pro-gay marriage supporters who also support religious conscience have said before, conscience cannot trump government services. If someone in such an office objects, someone else must issue the license. Gay rights are a beautiful thing. They won't stay beautiful long if religious people are hounded. As long as everyone can get their needs met, this issue of religious objections does not have to absolutely worked out. And it shouldn't be. This should be a matter of live and let live until everybody gets used to the idea of gay equality. I am not demeaning discrimination. That is what it is. But I am also not interested in fights over symbolic denials of services for the sake of forcing a symbolic affirmation of equality.

Title: "The money seems to have lost its knack for hoodwinking the voters."

Date: 2015-08-19T04:51:00.000-04:00

8/19/2015—The above quote is from Paul Krugman—you can look it up. (I believe it was his blog). Krugman's point in context was that Jeb Bush is raising all this money from just a few billionaires and he is still just fourth in the polls. But the quote fits into a larger context as well. Bush is mostly raising independent money. That is, super PAC money. I have been arguing that the problem of money in American politics is not the amount but the independence. We need that money to go directly to candidates so they are responsible to the voters for it. This is my disagreement with Harvard Law Professor Larry Lessig, who is now running for President. And I can do something about that independence—if we end campaign contribution limits, all that money eventually will have to go to the candidates themselves. Then the voters will see plainly who is paying for what. And won't some of these rich people go home if all they can do is contribute to campaigns? And, additionally, then the Democrats will not be handicapped with these ridiculously low contribution limits. Big donors give millions to Super PACs backing Republicans while Hillary spends all her time raising nickels and dimes. This partisan edge is not my reason for opposing contribution limits, but you would think the Dems would support the idea out of self-interest alone. It's not just the money. Krugman sees that now. It's independence that is the problem.

Title: Introducing Constitutional Law in the Midst of the Plight

Date: 2015-08-26T05:08:00.001-04:00

8/26/2015—Martin Heidegger says that we are living in the midst of an emergency. That emergency manifests in many ways, one of which is that we do not understand that we are living in an emergency. We think things are OK. Normal. Like they have always been. Our problems are just human nature.

Last year, I talked about the broken Republic. (On this blog, one year ago) This year, I tried to introduce my students in constitutional law this year to thinking in the emergency. Here is what I told them.

Why does almost every American law school require constitutional law? Unlike the 1st year courses in private civil law and procedure, such as the property, torts and contract, constitutional law does not really form the basis of all legal concepts in all other areas of law. Nor will most of you handle constitutional cases, though some of you will. Of course constitutional law is on the bar exam, and in fact constitutes a substantial portion of the bar exam, but family law is on the bar exam as well and most law schools did not require it.

The answer has something to do with Marbury v Madison and the doctrine of judicial review. Judicial review, which Marbury is credited with establishing, although the idea was not particularly controversial and had been previously accepted, is the power of the court, in the course of ordinary litigation, to hold the actions of other branches of government, such as statutes and Executive Orders, unconstitutional and thereby void. Judicial review is the opposite of parliamentary supremacy, which is the doctrine that laws enacted by the legislature are beyond challenge by other branches of government.

Aside from the context of Marbury – – how it arose, how it was a part of a political/legal struggle between 2 political parties, the Federalist party and the new Democratic Republican party of the recently elected president Thomas Jefferson, and how the particular holding of unconstitutionality could not readily be overturned by the president or by Congress – – aside from all that, the establishment of judicial review meant that some questions that could perhaps have been treated in purely political terms with the common issues of law to be debated in a courtroom. And so, with many twists and turns, and with much controversy, some of which we will examine in this course, Marbury leads to the resolution of the gay marriage issue in the Supreme Court in Obergefell v. Hodges. And that means that lawyers – – judges, litigators and even legal theorists – – will be at the heart of American public life. Judicial review mean that the legal profession that you are seeking to join has a special responsibility for the healthy functioning of the constitutional system. And I believe that this is the reason that almost every law school requires constitutional law. You will each be responsible for the health of American public life.

So the question I want to put you is, how are we, and the Constitution that has been put into our hands through the doctrine of judicial review, how are we doing?

I think we are doing very badly indeed. I know members of our faculty in the law school disagree with me about this, Maybe we are doing just fine. But In fact I believe that the experiment of the Republic is in danger of failing. There was always a question of how this would go. Apocryphally, Benjamin Franklin was asked if he left a constitutional convention, Mr. Franklin, what form of government have we? The answer, the Republic, Madam, if you can keep it. We are in danger of not keeping it.

The story of failing American public life obviously can be told from 2 different points of view. From one point of view, the Republican Party has become a rogue political party, denying facts and science, in thrall to the economic 1%, and so is poisonously partisan that it would rather see America go down the drain then see Pres. Obama succeed. From the other point of view, we don't have a president as much as we have a dictator, who believes his own policy, rather than, as the Constitution would have it, the policies of Congress, should be the law, in many fields from immigration to environment to the Iranian deal. Under this regime of Presidential will, no individual rights are safe, from search and seizure to religious liberty.

The very fact that there are 2 such narratives absolutely believed by millions of Americans demonstrates that political solidarity and community is failing in America today. Perhaps you believe that everything is fine and that political life has always been like this more or less because of human nature. But I think there is something wrong.

The question then becomes, what went wrong? When did it go wrong? How did it go wrong? And, most importantly, can it be made right, or at least more right than at present? And I hope that this course will give you the tools, and perhaps if I am successful, some hints, that might help you answer this most important task of healing America.

Title: Is There a World Beyond Capitalism?

Date: 2015-08-30T18:27:00.000-04:00

8/30/2015—Between Gar Alperovitz's DVD of his lecture, "the next American Revolution: beyond corporate capitalism & state socialism," and a program I attended last week here in Pittsburgh, I can begin to imagine a world beyond capitalism. Alperovitz is describing a different kind of economic system, but it is really an older one, that of worker cooperatives. And, in the program, some people who are doing this kind of thing here in town were describing their experiences. The difficult part is to imagine how a change takes place. After all, there are worker co-ops now and capitalism is as strong or stronger than ever. Why would not the economic landscape look the same as today in 200 years? Then there is the question whether it is worth replacing capitalism with cooperative ventures. Right now, most of the benefits and gains go to the top 1%. But, in the context in which we are speaking, that of business organization, the entrepreneur also takes all the risk. By that I mean that if the business goes under, the worker loses nothing but the next paycheck. In contrast, the owner should lose everything. There are advantages to such a system. It was also revealing that there was a great deal of hostility in the room concerning the new, sharing, economy. For most of the speakers, the new economy is just the way to turn workers into underpaid, self-employed units. Anyway, I need to contact Gar Alperovitz to find out what law schools are doing, if anything, to speed along the next American Revolution.

Title: How to be Secular

Date: 2015-09-02T05:36:00.004-04:00

9/2/2015—James Kugel, the chair of the Institute for the History of the Jewish Bible at Bar Ilan University in Israel and the Harry M. Starr Professor Emeritus of Classical and Modern Hebrew Literature at Harvard University, is a Jewish superstar I never heard of, until recently. He is concerned with the question, how to be Jewish today. His own response is provocative. He calls himself “self-defined orthodox”. Imagine that. Kugel dares to be a Jew on his own terms, but still insists he is Jewish. These are ways I never managed to undertake. Also, although he lives in Israel, he does not seem to consider the Jewish State to be an important religious issue. One recent book he wrote is entitled *On Being a Jew*. The book is a dialogue between a student and a teacher. I haven’t read it. But I appreciate the genre. Now, why would he write this book? Because being a Jew today is the issue as Judaism declines. He is trying to be helpful. Presumably, he is also helping himself. Now consider all these new secularists, including me. We don’t have any idea how to be secular. And people who sound like they are trying to help us be secular, end up writing about the religious traditions and their weaknesses—like Philip Kitcher’s book, *Life After Faith*. The secular need is greater than the religious one. I tried to write about how to be secular in the book, *Hallowed Secularism*. And there are some meditations in that book that might be helpful. But I didn’t know then how to be secular. Still don’t in fact. But I am learning. Anyway, Kugel has shown us our task—to write, and live, how to be secular.

9/6/2015—I agree that Kim Davis, the Kentucky clerk who was jailed by a federal judge for refusing to issue gay marriage licenses, should not be in jail. But the reason is that now the licenses are being issued. All she should have to promise the court is not to interfere. What difference does it make who issues the license as long as it is issued? I used to belong to a group that promoted gay marriage and robust religious exemptions—to protect the florist and caterer who did not want to be associated with gay marriage. That was a matter of religious conscience. Davis has nothing to do with that. Instead, Davis wants to use the monopoly power of the State to deny gay people the right to marry. She is not Henry David Thoreau, but Caesar. Davis' husband said in an interview that gay people are trying to force others to accept their position. No. They are just trying to marry. The question was never Davis and her conscience. Davis could always have personally stayed out of it. The question was the actions of the government. The government has to issue licenses to marry. Supporters of Davis yesterday raised the legitimacy of judicial review as part of her defense. But, actually, Davis' situation is not much affected by what branch of government decides to issue marriage licenses to gay people. There are Christian clerks in states in which the legislature has enacted gay marriage as well. Their offices still have to issue the licenses. Anyway, it's a pretty big argument between gay marriage and the end of judicial review. We've had that power of courts to find legislation unconstitutional since the Constitution was adopted. Probably a good thing. Who wants to experiment now? Remember, it was the courts that protected religious conscience in the Hobby Lobby litigation.

Title: A Heideggerian Prayer

Date: 2015-09-07T21:49:00.003-04:00

9/7/2015—What we, steadfast in Da-sein, ground and create and, in creating, encounter in a rush—only that can be true and open and, consequently, recognized and known. Our knowledge reaches only as far as the steadfastness in Da-sein reaches out, and that is the power of sheltering the truth into patterned beings. Contributions to Philosophy, Section 193, page 249. (additional translation by Robert Taylor).

Title: The Iranian Deal "Passes"

Date: 2015-09-12T05:39:00.002-04:00

9/12/2015—Just before the anniversary of 9/11, word came on Thursday that Senate Democrats beat off a closure vote and successfully filibustered the Iranian disapproval vote. So, the deal goes through and President Obama gets his second legacy win—first Obamacare, and now the Iranian deal. Both achievements are significant and the President deserves credit for pushing through against all the critics. But, both victories also demonstrate just how partisan political life has become. No Republicans in Congress supported either measure. (Actually, at one point I think I remember one Republican House vote). (By the way, in October, 2013, Ann Coulter tried to rally the base with the following in Human Events: "When your new health insurance premiums arrive in the mail, and you can't find a doctor in your plan who speaks English, tell me the fight between Republicans and Democrats is not that important." As Sarah would say, how is that working out for you, Ann?") But the Iran deal is actually nonpartisan. Some Democrats oppose it. So, the struggle over the Iran deal illustrates, as did Jimmy Carter's Panama Canal Treaty, that Americans are really pretty aggressive in foreign policy. It's not just a testament to 9/11. We don't like the nuances of foreign agreements in which we give something up of real value. Americans tend to prefer the clarity of military action. (Jimmy Carter should be a hero for the war in Central America we never fought). I have said before that the filibuster is an overused, anti-democratic tactic. And the Iranian deal is a perfect example. The American people deserved to have a vote. If the deal is that bad, let the people see who supported it. And, if the deal proves good, let the people see who voted to kill it. The Presidential veto would have been sustained and the ultimate effect would have been the same.

Title: Just Leave Me Alone on the New Year

Date: 2015-09-14T05:59:00.001-04:00

0/14/2015—I used to speak at synagogue during the High Holy Days. These are the New Year holidays bookended by Rosh Hashanah and Yom Kippur. Nowadays, I think, what would I say? The Days of Awe, as they are also known, are peculiar to modern Americans. We don't think of ourselves as seriously in need of forgiveness and, anyway, who could give it? So the hopes of forgiveness change into something more conventional—in liberal Judaism, to be a better person; in orthodox Judaism, to do one more mitzvah (to begin keeping kosher would be a great start in many orthodox synagogues). But all this has nothing to do with Biblical living. In both old and new testaments, thus for me in Torah, which is both, sin is usually not so personal. There are exceptions, like not to murder, but even these are much more fundamental than not yelling at the kids or not eating shrimp in restaurants. The sin with which the Torah is actually concerned, whatever the context, is refusing to listen to God's word. So, Mary is praised in the New Testament for responding to God, do with me as you will (as does Jesus). Similarly, Abram (later Abraham) is simply told to go to a land that God will show him—lech lecha—and he goes. In other contexts, the symbol of such willingness is the word hineini—here I am. This is not the modern, here I am as what I am. The is the biblical here I am, what would you have me do? So, the proper prayer today on Rosh Hashana is, make me ready to say hineini to you. Oh, I know I don't believe in a God that says things. But the spiritual context here is not one that requires a God as a being. What is required is a call—I am called and I respond hineini. Atheists too. Now, the hard part. If I am candid, I do not want such a call. And the tradition knows this too. That is, in part, why the Book of Jonah is read on Yom Kippur. When he receives the call, Jonah runs away. That is what we all do. What if the call I received was to give up my comfortable, wonderful existence in the Mexican War Streets, where for the first time since I was 14 years old, I feel genuinely at home, and told to go to a new place—whether physically or otherwise. I like the life I have just fine. So, the honest person prays the other prayer Jesus prayed—let this cup pass. Don't call me. Please leave me alone. Strangely, the trick here is to get modern people to understand that the terms of biblical life are our terms. And this has nothing, nothing!, to do with whether we “believe” in God. Abraham Lincoln received a call. People have wondered whether he believed in God. The call still took his life.

Title: Shabbat Shuvah

Date: 2015-09-19T06:15:00.003-04:00

9/19/2015—The Saturday between Rosh Hashanah and Yom Kippur is known as Shabbat Teshuva, the Sabbath of Repentance. [Well, actually, no. It is that, but the name of this Shabbat is Shabat Shuva, from the first word, shuva, in the haftarah from Hosea: Turn O Israel. The root of the word for repentance, is shuvah, to turn. I regret the error, which I caught from reading Rabbi Jessica Locketz in the Jewish Chronicle].

Various accounts are given of why and how this is, but the general idea is clear enough, the Shabbat of this holy time—the entire 10 day period between RH and YK is known as the High Holy Days—is a natural time to think about one's life. Shabbat has a different rhythm, after all. There is less doing. Shabbat Teshuva is also one of the two big sermons a rabbi traditionally gives. (the other is Shabbat Ha-gadol, the Saturday after the beginning of Passover). I went to hear the sermon of Rabbi Yisroel Miller, who was head rabbi at Paole Zedeck synagogue, give this sermon. He said to do one more mitzvah in the coming year.

So, let's think about repentance. There is ritual repentance and cultural repentance. This is a large part of what I heard that day. Keep kosher and identify more with the Jewish community (support Israel). This is the repentance of Israel bonds.

But it is also the repentance of liberal humanitarianism. Become a vegetarian and give to the Sierra Club (don't drive so much). I have heard these also on the High Holy Days.

Anything wrong with that? No. Secularists like me hardly ever consider their lives at all, let alone for ten days.

Ritual and cultural repentance is the same for everybody. There is also the repentance that is personal. There are in a year particular acts for which we might be ashamed. (I had a pretty good year in that regard, but on the other hand I haven't spent a whole day in self-examination). Classically, this is the moment to think about that affair you had, which your spouse does not know about. It is important to keep this repentance away from the petty and impossible—don't yell at your kids so much is always good advice, but I am speaking here of something shameful and particular. Of course, it could include a very large matter, such as the job that requires you to lie every day. And certainly it must include how you regard your enemies.

You can resolve to do something about these things, or not do them again. And you can try to see how these acts flowed from your whole life and the way you are.

All very good and necessary. But I am getting too old for either. I'm not changing my lifestyle if I can help it. And wealth and lack of energy shield me from having to lie to people.

There is another kind of repentance—one to which Martin Heidegger calls us. It has to do with language and thinking. This should come as no surprise. The Jewish tradition often refers us to our language and thoughts. It is here that purification must begin. That same portion from Hosea reads, Take with you words and turn to God... ."

But we lack the tools. Torah study in part begins the movement of purifying our language and thinking. Heidegger gives us another place to begin.

The book, *Contributions to Philosophy*, is Heidegger's great act of repentance. He had just resigned the Presidency (Rectorship) of the University of Freiberg (April 1934, less than a year after he was elected and joined the Nazi Party). He stopped going to Nazi Party meetings (he would later call this whole episode "the greatest stupidity of my life" but he never gave the public apology the authorities demanded.)

Contributions was written from 1936-1938, in private and never shown or even published during his lifetime. At the time, the book's veiled references to the Nazi movement (biologism) would have gotten him in serious trouble. Even as it was, the government banned him from teaching before the end of the war—they could tell something was going on.

So, where does Heidegger begin? The official title, the one a teacher might have on the door, is *Contributions to Philosophy*—"dull, ordinary and empty" Heidegger calls this title and he has an alternative—*Of the Event*.

But why so dull a title? "Philosophy can be officially announced no other way, since all essential titles have become impossible on account of the exhaustion of every basic [grounding] word and the destruction of the genuine relation to the word." (additional tran. by R. Taylor).

What follows is strange language, almost impenetrable for a long time.

But for Teshuva, the point is the exhaustion of language in the western, metaphysical tradition. Heidegger tried to stop using dead words. And that must be our starting point for teshuva. Wittgenstein called this not being pushed around by language. Teshuva requires that we examine our language—the way we speak every day. I can tell you, this attempt is difficult and tedious. Is it rewarding? We'll know when we try it.

I can say that transformation does not happen without it.

Title: Yom Kippur

Date: 2015-09-23T05:46:00.001-04:00

9/23/2015—I watched a part of a movie a few days ago about a British official fighting Muslim extremists in Britain. Early in the movie, a Muslim cleric is radicalizing a young British man, although one who might have been born abroad. They are in a bar, watching young people getting drunk. “We are not like them,” says the cleric. On this Day of Atonement, I am reminded that no one in the world is like the rootless western secularist. A holy day like Yom Kippur gives shape to a year and to a life—along with the rest of the religious calendar. But to the secularist, one day is like another. That is why so many of us look to nature to provide seasons and rhythms. But the religious holy day is not just seasonal, but meaningful. That is literally filled with meaning. My relationship with ultimate reality is renewed. I am reassured that life is not an accident and is not pointless. I am placed once again in a great cosmic drama. This drama of course requires a central character. This character could be God, but as in Job, I always believed it was I. Or perhaps it was I in relation to God. Thus, my purification was required by the universe. And I could emerge renewed and refreshed after the holy day. If it sounds like I miss Yom Kippur and the Kol Nidre ceremony that was performed last night, it is because I do. But all of it—including the fasting—is too involved to perform unless one is a part of it. And one cannot just watch it from a distance. So, despite numerous invitations, I don’t go back to Dor Hadash for Kol Nidre and I don’t fast and pray on my own. But I do blog. Thinking the religious calendar is now my substitute for having one.

Title: Pope Francis Visits

Date: 2015-09-25T05:57:00.001-04:00

9/25/2013—I am surprised by the reception—rapturous reception—Pope Francis is receiving. I have to listen to the speech. Friends of mine called it charming. The Pope does have a good heart. But what is notable is the authority with which he is speaking. People care what he says. People, especially politicians, want his approval. And not just Catholics. Partly it is because he is Pope. But of course it is also Francis' own character. But the most important lasting effect the Pope's visit, and especially his speech to the Congress followed by visiting the homeless, might have is to remind secularists of the notable character of religion. Francis is unique. Most religion is not like him. But no secularist is like him that I know of.

Title: Did Pope Francis Do His Job?

Date: 2015-09-30T14:32:00.002-04:00

9/30/2015—Did Pope Francis do his job? Well, that depends on what you think his job is. I would give him only a C+. He and I would agree that his job is to preach the Gospel of Jesus Christ. So, why only a C+? The Pope made many of us feel better, much better, inspired by his humility and love. But did the Pope make it clear that the source of his character is Jesus Christ? Maybe he did in visiting the homeless and prisoners, as Jesus often did. But I heard one person at the prison say that the visit showed the Pope to be a “man of the people”. Jesus did not enter into it. And, anyway, making people feel better is ambiguous in terms of Jesus. Sure, Jesus made the poor feel better. But many people found him to be a pain in the ass. If Jesus had spoken in Rome, he would not have made the people of Rome feel better. Well, wasn't the Pope speaking in today's Rome? Here are two groups I believe the Pope should have been aiming at and did not reach. First, there are those conservative Protestants. Ruth Ann Dailey, one of this group, wrote a column in the Pittsburgh Post-Gazette recently criticizing the Pope's message on issues like immigration and poverty. Many of the members of the Tea Party are quite religious. But I don't believe the Pope succeeded in suggesting that the Gospel they purport to follow is inconsistent with their policy proposals. The second group is liberal nonbelievers. Many in this group admire the Pope. But did the Pope succeed in showing this group that concern for the poor and for immigrants and for the unborn are linked? Did he show them that they are practicing a form of violence in abortion? I don't mean people would have changed their minds. I mean only that the Pope did not press issues or approaches that would shock people. He did not introduce the strangeness of the Gospel.

Title: Is Litigation the Way to Stop Global Warming?

Date: 2015-10-03T07:37:00.000-04:00

10/3/2015—Mary Wood, Oregon Law Professor, gave a terrific presentation at the Duquesne University Climate and Creation Conference. Her message was an endorsement of pending atmospheric trust litigation that attempts to hold governments accountable for change in the climate. The litigation enforces what she calls nature's trust—a kind of expansion of the public trust doctrine. The necessity of such litigation is simply the emergency of climate change and the harm it is already doing. What she calls the statutory regime of environmental law is not adequate and a Congress bought by the fossil fuel industry is not up to the task. The citizenry has been intentionally confused by big money lies about the climate and cannot demand change. Wood denies that such litigation turns judges into dictators, but she is being disingenuous about that. Such litigation, if successful, results in a court order to reduce carbon emissions. How is that to be done without legislation, except by direct executive action? The fact that the President takes the ultimate actions does not change the undemocratic nature of the undertaking. Yes, courts enforce rights against the democratic branches. But this kind of action is certainly controversial and, compared to moving to a carbon free economy, is very limited in range and impact. In contrast, the President would have to impose a carbon tax or cap and trade etc. What Wood was showing, although she would presumably deny it, is that democracy is just a luxury in the face of this emergency. The example she used—economic mobilization in WWII—just proves the point. Democracy in wartime generally takes a back seat. But only temporarily. I may be overreacting. The litigation may be meant really to spur action—like the use of the necessity defense in civil disobedience cases is meant to allow the protestor to make her case before the public—not to win acquittal. If so, I wish she had said so. The irony of this is that, back in 1998, I wrote an article laying out the same strategy that is now being used—Establishing a Federal Constitutional Right to a Healthy Environment, 68 Miss. L.J. 605. But I later repudiated this approach as ceding much too much power to the courts and lawyers. Once it is concluded that democracy has failed, it doesn't matter that much what happens to the environment. If the only way to save the planet is to enslave its people then I have to ask, what is the point of saving the planet? Just get rid of the people. Martin Heidegger warned us about this years ago. He was quoted as saying that he did not know what form of political life was appropriate for a technological age, but he doubted it was democracy. Maybe he was right.

Title: The Pretty Small University

Date: 2015-10-07T09:35:00.000-04:00

10/7/2015—I mean to quibble. David Brooks wrote a column yesterday in the New York Times, entitled The Big University. In this column, Brooks argues for the future for universities founded in their original moral and spiritual mission, but secularized and open. The column manifests the ambiguity of the liberal mind in terms of truth and individual choice. Brooks acknowledges that "literary critics, philosophers and art historians are shy about applying the knowledge to real life." They are "afraid of being prescriptive because they idolize individual choice." But Brooks himself manifests the same hesitancy. He puts the issue as follows: "the trick is to find a way to talk about moral and spiritual things while respecting diversity." But the great universities of the past did not respect diversity. They presented an array of truths that they endorsed. And this was especially so in the canon of Great Western works. Yes, the universities respected different judgments by students and created a space for students to challenge the University's commitments, but the University stood by commitments all the same. This is not diversity. Brooks presents four tasks for the University. One, reveal moral options in our moral traditions, including the Jewish, Christian, and scientific traditions. But then Brooks adds the following: "then it's up to the students to determine which one or which combination is best to live by." No, the University endorses an array of truths to live by. The University does not simply present matters to be picked up by the student, like a smorgasbord. Here are the other tasks. Second, "foster transcendent experiences." In other words, surround the student with beauty and truth and commitment. Third, investigate current loves and teach new things to love. Fourth apply the humanities. What Brooks wants is moral instruction. He should ask, since universities used to engage in moral instruction, what killed it? Unfortunately for Brooks, and bad for us, is that what killed moral instruction is all the aspects of modernity that we endorse. Thus, we are trapped.

10/11/2015—The New York Times today shows how liberals fool themselves about money. On page one, there is the big story about how half of the money spent on the Presidential campaign comes from just 158 families. This money, the story intones, is keeping the Republican Party from supporting policies, like higher taxes on the wealthy, supported by 2/3 of Americans. So, money is the political problem rather than poorly conceived or communicated liberal ideas. Except that other stories suggest this is not true. First of all, as Frank Bruni suggests in the Sunday Review, money has not been the primary factor this year. “Remember how much money was supposed to matter, partly for the commercials it could buy? Well, the ads didn’t have, or aren’t having, the intended effect for Bush, Perry, Kasich, Bobby Jindal (another floundering governor) and — on the Democratic side — Hillary Clinton.” The reason that Republicans don’t propose higher taxes on the wealthy, including someone like Trump who does not chase donor money as much as others do, is that they don’t believe in them. They don’t want government to get more money. They think it is a bad idea. Consider the case of Ray and Melissa Lewie featured in the Sunday Business Section. They are angry about stagnant wages. But they don’t blame the wealthy. They blame government. “When asked to assign blame for stagnating wages, he and his wife pointed to the federal government. Regulations and high taxes, he said, not lower wages abroad, led those textile mill companies to move to Mexico.” “‘Our money is being wasted, wasted, wasted,’ she added. ‘And now we’re paying more and more, and our debts are going up and up, and we need to stop the debt. We have to find someone that’s going to actually take control and say, “Stop spending.”’ Her husband said, ‘I don’t think it could get any worse.’ ‘The government is taking 39 percent now,’ said Mr. Lewie, a little morosely, referring to the top income tax bracket. Not for the first time during the meal, he worried that high taxes would discourage the wealthy from producing jobs. ‘If they want 45 percent, they’ll take that and spend more. If they want 60 percent, they’ll take that and spend more. How much is enough?’” Liberals have to stop talking about taxes and start talking about unions. Start talking—more, that is—about the minimum wage. That is the kind of message that might reach Mr. and Mrs. Lewie.

Title: The Difficulty of Reining in Money

Date: 2015-10-15T05:48:00.002-04:00

10/15/2015—Last night's debate among candidates for the Pennsylvania Supreme Court illustrated the problem of reining in money. The candidates all pledged to take the Supreme Court out of judicial discipline, which may finally portend a new era of institutional modesty at the Supreme Court. But in response to a question about independent money, there was confusion and obfuscation. The fear in Pennsylvania is last minute attack ads aimed at one candidate of the opposite Party, to help one more candidate get elected among the three to be elected. I'm not sure it's going to happen. It's getting pretty late in the election. But it could. So the question was whether the candidates would prevent this from happening. What we got was that noncoordination rules would prevent any action by a candidate and that outside groups have a first amendment right to do this under the Citizens United case. As to the first, there aren't any noncoordination rules as far as I know. Judicial elections don't have contribution limits, so why would there be rules on noncoordination that normally enforce contribution limits? As for the first amendment, the question isn't whether it would be illegal to run attack ads, but whether a candidate would tell her supporters not to do so. This mindset shows the harm of rights theory. Just because there is a right to do something, doesn't mean it is right to do it. It's going to take practice to live in a world without contribution limits.

Title: Heidegger and the Last God

Date: 2015-10-23T05:50:00.001-04:00

10/23/2015—When I first encountered Martin Heidegger, I assumed that here finally was a philosopher of depth that atheists could embrace. This would be a way out of the crisis in secularism, a way out of the materialism and nihilism that have stunted secularism in America. Imagine my surprise in studying *Contributions to Philosophy*, to read constant references to god and the gods. In the last parts of the book, this theme is particularly pronounced. Others might point out that this is not surprising in a philosopher who, in a letter in the 1920's, called himself not a philosopher but a Christian theologian. So, is Heidegger then not the future of western thinking? No. Heidegger remains that future (if there is to be a future, as he might have added). What is needed is the realization that atheism as commonly understood is a rejection of metaphysical religion—a rejection of the supreme being. Heidegger specifically identifies the Christian God as a manifestation of metaphysical religion. Heidegger offers a way of thinking at the end of metaphysics. So he might be called an atheist himself, except of course for all this god language. What are we to make of this? We will just have to learn what Heidegger is seeing (or listening to) when he writes the word God. Maybe he is referring to that to which humans belong and which calls us in a demand. And maybe some will conclude that this is nonsensical. But this will have to be thought and shown. One thing I believe I can say. God here is not a metaphor. The word is a name for something real. The most real.

Title: So, It's Not Going to be Trump (or Carson)

Date: 2015-10-29T06:02:00.002-04:00

10/29/2015--Well, who thought it would be? As many predicted, now that it is fall and people are actually starting to pay attention, Donald Trump just seems like a bad dream. That much seems clear from the reporting on the GOP debate last night. I would not watch such a thing, but the reports are clear. Dr. Carson will go next. It now seems that the "big" GOP field has just two people in it--Ted Cruz and Marco Rubio. This is more or less what experienced observers--like Ross Douthat--said all along. Florida and Texas--the GOP heartland these days. They might even be a ticket one way or the other. Back to ordinary politics. And does this not show how wrong liberals are about money in politics? No big money anointed these two. They just spoke better to the base of the Republican Party. But, what if one of them wins? They have both denied global warming in the past, but they are not stupid. Cruz for example relied on the pause in record breaking global heat. Now that it has resumed, he could go back. Rubio is tougher. He has been described as all fossil fuel all the time. But politics being what it is. Presumably they all love their kids and grandchildren. They cannot really want for them what is coming.

Title: Ross Douthat's Mistake

Date: 2015-11-03T18:41:00.003-05:00

11/3/2015—Ross Douthat responded today in the Post-Gazette (the column appeared earlier in the NY Times) to a letter to the Times from theologians criticizing him for commenting on what Douthat characterizes as a rift in the Catholic Church over admitting the remarried to communion without an annulment. Douthat is right that both liberals and conservatives have reasons for downplaying the extent of the rift. And he is right to be offended when theologians respond that he does not understand because he is a lay person. But Douthat is treating Church divisions as if they were American political disagreements and the two contexts are different. First, Church doctrine really does change—it does not just “deepen.” This was the case with the teachings of Thomas Aquinas as well as Vatican II. Second, the doctrines he is so concerned about are really not that important. They are political flash points, not theological ones. Jesus taught that marriage could not be dissolved, but the annulment process already reverses that teaching in many cases. Anyway, the issue is communion, not divorce. Jesus ate with sinners. Finally, changes here will not require “a bitter civil war.” That is a political columnist talking, not a Catholic. The Church had a civil war over the Reformation. It is not going to have one over a matter like this. The Church develops in an elaborate dance between continuity and change—sometimes more of one and sometimes less. Fortunately, the Church is not really like politics.

Title: What is Wrong with Whites?

Date: 2015-11-08T06:24:00.004-05:00

11/8/2015—Here is a blog posting from Paul Krugman on a study showing rising death rates among non-Hispanic Whites in the U.S. ***** This new paper by Angus Deaton and Anne Case on mortality among middle-aged whites has been getting a lot of attention, and rightly so. As a number of people have pointed out, the closest parallel to America's rising death rates — driven by poisonings, suicide, and chronic liver diseases — is the collapse in Russian life expectancy after the fall of Communism. (No, we're not doing as badly as that, but still.) What the data look like is a society gripped by despair, with a surge of unhealthy behaviors and an epidemic of drugs, very much including alcohol. This picture goes along with declining labor force participation and other indicators of social unraveling. Something terrible is happening to white American society. And it's a uniquely American phenomenon; you don't see anything like it in Europe, which means that it's not about a demoralizing welfare state or any of the other myths so popular in our political discourse. There's a lot to be said, or at any rate suggested, about the politics of this disaster. But I'll come back to that some other time. For now, the thing to understand, to say it again, is that something terrible is happening to our country — and it's not about Those People, it's about the white majority. ***** I'm tempted to attribute this to the death of religion and the failure of secularism to come up with a form of meaning that can contribute to flourishing human life. And there is some support in this idea, since the other groups, most particularly Hispanics and African-Americans, whose death rates are not going up, are more religious than is the White majority. But, if this is the case, why would it not infect Europe, where the death of religion is much more pronounced? This suggests that the real problem is the death of the American dream. Middle age Whites are the ones who never got ahead as the system was, and finally seemed to them to be, rigged against them: stagnant wages in the presence of massive wealth at the top. But, again, why would Europe be exempt? Economic conditions there are much worse than in the U.S. But social solidarity is not as low. That is true in two senses. First, materially, the social welfare safety net still works in Europe. For example, even if my life is a dead end, my children get a good education and have more upward mobility than in America. So, I would not have to feel like I failed my kids. Second, psychologically and ideologically, Americans believe in individualism. Conservatives and liberals. (On the left, it's called choice and it's the reason that fathers have no say whatever in the abortion decision, not even the right to know about it). So, in America, you are on your own. Stand on your own two feet. Or, in this case, lie down in your own grave.

Title: Heidegger's Judeo-Christian

Date: 2015-11-13T06:15:00.000-05:00

11/13/2015—There have been complaints, for example in the book *The Unthought Debt: Heidegger and the Hebraic Heritage* by Marlène Zarader, that Heidegger's is silent about the Hebraic heritage that is said to influence him. There is even a hint in this line that the silence is willful and is evidence of antisemitism. Even someone sympathetic to Heidegger, like Allen Scult in *Being Jewish/Reading Heidegger* takes the allegation of silence seriously and tries to justify it by suggesting that one can only honor one tradition as a wellspring and for Heidegger, it was Greece. But all this overlooks the most obvious possibility—that Heidegger thought that Jewish thought and Christian thought shared essential attributes. Thus, in either discussing Christianity directly or in adopting Christian motifs, he was also dealing with Judaism. This would not be shocking. It is how I think of the tradition—as essentially one. And it would be the opposite of antisemitism. I had no evidence to support this surmise until I ran across the following quote in *Contributions to Philosophy*: "The last god has his own most unique uniqueness and stands outside of the calculative determination expressed in the labels 'mono-theism,' 'pan-theism,' and 'a-theism.' There has been 'monotheis," and every other sort of 'theism' only since the emergence of Judeo-Christian 'apologetics,' whose thinking presupposes 'metaphysics.' With the death of this God, all theisms wither away." Section 256, page 326. Now this is not too flattering of course. But it is a criticism of the place of Jewish thought and Christian thought within Western thought. Whatever Heidegger learned from the religious tradition of the West—and it was a great deal—he believed another beginning was necessary. It is not an unthought debt. And only one determined to criticize Heidegger could consider it hostile to Judaism.

Title: None

Date: 2015-11-15T05:56:00.000-05:00

11/15/2015—The New York Times ran a story on Thursday about Democratic Party losses at the state level: [in Obama era, G.O.P. bolsters grip in the states](#). The story laments the loss of young Democratic Party talent as the Republican Party has succeeded in capturing a huge majority of state legislative seats and governorships – – Republicans now control 32 state governorships.

The focus of the story is absurd. The problem of course is not the lost young Democratic candidates, but the loss of political support. Candidates follow support, not the other way around. And if the Democratic Party were to gain support, young attractive candidates would appear.

So, the question is, why are the Democrats doing so badly? After all, the Republican Party looks to be in a terrible position: on the wrong side of immigration in a country becoming more racially diverse, against gay rights in a country becoming more accepting, against action on global warming in the country that is coming to see that global warming is true and a threat, for religion in a country that is becoming more secular, against action on economic inequality in a country devastated by stagnant wages.

The article hints at an answer. The Democrats have trouble winning over voters, President Obama acknowledges in the article, and even when they do, they have trouble motivating their voters to vote. This is a problem, a deep problem, of message.

Adam Edelen, the focus of the article, who was defeated in his reelection bid for state auditor in Kentucky, stated that the problem for the Democrats is that the party is “perceived to be elite.” And the president, he said, helps foster that perception.

Now why should the Democrats have a problem re-engaging the guy who works in a factory or the woman was trying to raise kids on the salary of a waitress? Isn't it the Republicans who favor the wealthy?

The answer may lie in the phrase, God, guns, country and family. The problem remains that old President Obama quote from after the 2008 presidential primary in Pennsylvania: “And it's not surprising then they get bitter, they cling to guns or religion or antipathy to people who aren't like them or anti-immigrant sentiment or anti-trade sentiment as a way to explain their frustrations.” Here President Obama is trying to reach out but he is talking about people rather than to them.

But the problem is not Obama. What do liberals really believe about God, guns, country and family? Most liberals are embarrassed if not hostile to all four as understood by most people in this country and certainly as understood by most white working-class voters.

Now add to that liberals support for higher taxes and you have a recipe for disconnection with ordinary people.

All this can be dealt with. It requires only two things: first, the absolute end of postmodern irony; second, the substitution of wages for taxes. Forget the rich. Just pay the poor.

Title: How to Defeat ISIS

Date: 2015-11-19T05:53:00.002-05:00

11/19/2015—I have watched in amazement as the media has failed in analysis in the week since the Paris attacks. Shortly after the attacks, in a meeting in Vienna, the major world powers reached a framework to end the Syrian Civil War. There was to be a cease fire and then UN intervention followed by free elections. The precise timing of President Bashar Hafez al-Assad's leaving office was to be worked out. It was not final, but it was promising. And then...nothing. Back to more or less irrelevant bombing and Republican Party hints at more invasion on the ground—see a column by Mitt Romney. Although it holds territory in both Iraq and Syria, ISIS's current power is the product of the Syrian Civil War. End that war, end ISIS. The terrorist group is a political, not a military issue. Iraq has the military power to eliminate ISIS, but cannot rally Sunni forces because of its Shiite predominance. Iraq's failure is also political, not military. I am not making an argument against military intervention on moral grounds or even on national grounds. Such intervention is simply not necessary, nor even the most efficient way, to eliminate ISIS. Now, how far apart are the US and Russia—Obama and Putin? From the outside, not particularly far. Putin does not look like he is insisting that Assad remain permanently. The US seems to have dropped its demand that he leave before negotiations take place. All that is missing is the political will to make the deal. That will seemed present when it was understood that this is the way to fight ISIS and end the refugee flood into Europe. Now, that will has been diverted. Still, the framework remains and eventually someone will figure out that the world is close to solving this problem for now. Incidentally, even coming this close to a deal shows that the Russian intervention in Syria was great for the US and for everyone else. For the first time, a power with the ability to deliver Assad had an incentive to end the Civil War in Syria. Prior to that, Russia and Iran could just sit back. With the bombing of the Russian plane and the chaos in Europe, everyone needs peace—or at least a cease fire and the reconstruction of order. I'm optimistic. But where is the media? Where are what Paul Krugman calls the deep thinkers to point all this out?

Title: Reason is Not an Alternative to Religion

Date: 2015-11-22T07:03:00.003-05:00

11/22/2015—S.T. Joshi is an Indian American literary critic and novelist and is the editor of the book, *Atheism: A Reader*, which I have not read (though undoubtedly I have read pieces of it).

Joshi was upset by a David Brooks comment that the “secular substitutes for religion—nationalism, racism and political ideology—have all lead to disaster.” So Joshi wrote a short letter to the editor in the NY Times on Friday in which he stated that he was “deeply offended” by Brooks’ characterization.

“The true secular substitute for religion is reason,” he wrote.

Now let’s think about this. The statement implies that religious believers don’t utilize reason, which is a common secular statement, but, as I’m sure Joshi realizes, would be just as offensive to many religious believers as Brooks’ statement was to him. Take a look, for example, at the kind of Christian thinking that criticizes paradoxical religion at [Bible Gateway](#).

The influence of various movements within our culture such as New Age, Eastern religion, and irrational philosophy have led to a crisis of understanding. A new form of mysticism has arisen that exalts the absurd as a hallmark of religious truth. We think of the Zen-Buddhist maxim that "God is one hand clapping" as an illustration of this pattern.

To say that God is one hand clapping sounds profound. It puzzles the conscious mind because it strikes against normal patterns of thought. It sounds "deep" and intriguing until we analyze it carefully and discover that at root it is simply a nonsense statement.

This religious thinking is steeped in reason. Yes, God is mysterious, but lots of matters in the universe are mysterious. For example, Joshi does not understand quantum entanglement (no one does), but that doesn’t mean it isn’t real.

What Joshi means by reason is probably evidence-based policy making. But that matter is a small subset of what is at stake in religion. Most religious people have no problem at all with evidence based policy making. They do not object to geology class teaching the age of the Earth. Evolution is controversial because of its ethical implications or meaning implications. No one wants high school biology class to teach that the universe is without meaning. That is not, nor could it be, an evidence based statement. It is a different kind of statement.

Joshi is wrong not because reason is unimportant or unreliable—it might be both. Joshi is wrong because reason is, for him, a means-end connection. For Joshi, reason does not define proper human ends or goals. But that is precisely what religion does. Religion defines proper human activity.

So, I ask what secularism substitutes for religion in defining proper human activity? It is crystal clear that decent secularists substitute a kind of political liberalism or economics based conservative ideology. We used to substitute Marxism. Indecent secularists substitute racism and nationalism, just as Brooks says.

I have to add here that this flimsy, thin thinking is not all that secularism might embrace. Hallowed Secularism attempts to find deeper roots for secularism. One such root might be the thinking of Martin Heidegger, who may be thought of as teaching how one can be religious without the fantastic elements that put Joshi off. Reason might be given a new name—philosophy. And that endeavor might be searching for what is whole, deep and rich in reality.

Title: I Guess Trump Really Could Win the Republican Nomination

Date: 2015-11-24T05:34:00.004-05:00

11/24/2015—All along I assumed that Trump—and Carson also—were a joke. Yesterday, Paul Krugman posted a blog entry that Trump really could win, citing more detailed poll numbers. I did not take Krugman seriously. It was the sort of thing that he would say in order to make fun of the Republican Party. But today I looked at the rules of the Republican primary voting. These rules were tweaked in 2014 to avoid another lengthy primary battle, thus weakening the eventual nominee. Well, the unintended consequence of the rule changes is that Trump could win, because States that hold primaries after March 15 will award delegates on a winner-take-all basis. Right now, Trump presumably leads in several of these states, as he does in Republican national polls. If 25% is enough for first place, it could be Trump. A Sweep on March 15—Florida, North Carolina, Ohio—might put Trump in a commanding delegate lead. Here are the rules: The first states to hold primaries, as usual, will be Iowa, New Hampshire, South Carolina and Nevada. Voters in those states will go to the polls in February under the party rules passed in 2014. States that hold their primaries between March 1 and March 14, 2016, will award their delegates on a proportional basis, meaning that no one candidate could likely win the nomination before late-voting states get to hold their primaries. States voting on March 15, 2016, or later will award their delegates on a winner-take-all basis.

Title: What Really Fuels ISIS?

Date: 2015-12-01T05:44:00.002-05:00

12/1/2015—One week off for a Thanksgiving family break. Thanksgiving is now the only healthy American holiday. The answer to the above question is actually nothing. ISIS is, after all, weak and small. It is not as if vast numbers of Muslims have flocked to it. Muslims living in the West are overwhelmingly peaceful people trying to make a living like everyone else. And yet. Radical Islam does seem to have an attraction for some young people. Why is that? Larry Hoffner, an occasional letter-to-the-editor writer in the New York Times, offers an insight in a Sunday letter in the 11/22/2015 edition of the New York Times Book Review. The context is the prior week's review of Michael Houellebecq's novel *Submission*—here is the Wikipedia entry: The novel, a political satire, imagines a situation in which a Muslim party upholding traditionalist and patriarchal values leads the 2022 vote in France and is able to form a government with the support of France's Islamo-Leftist Socialist Party. The book drew an unusual amount of attention because, by a macabre coincidence, it was released on the day of the Charlie Hebdo massacre. Hoffner draws attention to the reviewer's assertion (Karl Ove Knausgaard) that the novel's theme is the narrator's overall sense of living in a meaningless void. The rise of Islam in France is merely a consequence of this meaninglessness. The way Hoffner sees it, the Islamization of France in the book is a symbol of how intolerant ideology will fill a cultural void left by the ennui and disillusionment of contemporary European culture. In other words, the intolerance and uniformity of a certain form of Islam become attractive because of loss of meaning in secular life. So, now we have a question—where are we headed? Unless secularism becomes a domain of flourishing life, other forms of meaning must prevail. We have been here before. Democratic life in Europe waned in the 1930's and Fascism and Communism came to the fore. The point is to see ourselves as engaged in a task. Our task is to take our heritage—humanism, the Enlightenment, Christian culture—and adapt it to modern life. To do this, we must let go of post-modernism, which teaches the surrender of all vantage points. I admit we have nothing yet to replace post-modernism. But the first task is to stop taking in more poison. We can stop insisting that life is meaningless. We can at least say that we do not know what all the possibilities of life are. We can stop snarling at religion, which still provides a place to stand for billions of people. We can stop insisting that commitment is the problem and that if only everyone were as free-floating as we are, there would be no suicide bombers. According to Hoffner, we are the problem.

12/5/2015—The last few months have given us examples of terrorism—the killing of innocent civilians—by representatives of the three Abrahamic faiths. What do these examples tell us? For the first category, many recent attacks sponsored or associated with the Islamic State: the Russian plane on October 31, the attacks in Beirut on November 12, the Paris attack on November 13 and the shootings in San Bernardino on December 2. For the second, the November 27 attack on Planned Parenthood by Robert Dear that killed three. For the third, the July firebombing of a Palestinian home in Duma that killed three. Now obviously the three religions are not provoking terrorism in the same ways. For Islam, there is a worldwide network and some kind of religious message that inspires these acts. In contrast, Robert Dear was apparently a lone wolf. The two shooters in San Bernardino acted alone, apparently, but at least one clearly saw herself as acting in concert with the Islamic State. Islam has a serious theological problem. Somehow, thousands of people believe Islam teaches the propriety of the slaughter of civilians. Christianity as a world-wide movement does not have this problem. What about Judaism? At its heart, the Israeli-Palestinian struggle is religious. Both religions believe the land and its political structures must be dominated by one religion. This makes it difficult to see a proper role for members of other religions in the region. I am not leaving out secular nationalism, which plays a role as well. But there is this religious aspect. We are not used to thinking of Judaism in these terms. But Judaism has never come to terms with the place of the non-Jew. Famously, Rashi, the medieval authority with the greatest influence on rabbinic Judaism, taught that the reason the Old Testament begins with creation is to show that God created the land of Israel and can give it to the Jewish people if he chooses—not to show that all humans are brothers in the eyes of God. There are universal voices in Judaism's classic sources, but they are not as dominant as the ideology of the chosen people. Until we admit that religious violence is a religious problem that must have a religious solution, the violence will continue.

Title: The Spirit of Doom

Date: 2015-12-09T05:56:00.000-05:00

12/9/2015—The underlying theme of the 2015 movie Tomorrowland is that we are succumbing to a mood of despair versus an earlier mood of hopefulness and that this change is itself making things worse. People in despair do not improve their situations.

This theme plays out both expressly and implicitly in the movie. In one exchange, the hero, Casey Newton, repeats to her father a story he has often told her:

Casey Newton: There are two wolves who are always fighting. One is darkness and despair. The other is light and hope. The question is... which wolf wins?
Eddie Newton: The one you feed.

In another scene, Casey is in high school. Three teachers, in a row, drone on. One is describing mutually assured destruction and the danger of nuclear weapons. Another is describing the dire effects of global warming. A third, dystopia in literature.

But, despite the dangers described, the students are bored stiff. They are tuned out. Why not? They are not being challenged to do anything. This is all just happening.

Meanwhile, Casey has her arm in the air, trying to ask a question. The first two teachers ignore her. The third finally calls on her. Casey asks, what are we doing to fix it? I mean, I know things are bad. But what can we do?

The third teacher is just flummoxed by the question. Now the audience sees that the teachers are as bored as the students. For they also do not believe in the possibilities of the future.

Now think about America's broken politics. How we hate each other. And call each other un-American. And say the other side ignores science—(by the way, liberals ignore science all the time. See genetically altered food.)

Wouldn't it be crazy to believe that our politics could improve? What could possibly do that? So, we are infected by the spirit the movie is protesting.

Science fiction is often a harbinger of the future—as is art in general when it's healthy. Science fiction gave us the Terminator movies and the Matrix movies, warning us against technology destroying the human quality of humanity.

Well, in the October 18, 2015 issue, Charles Yu reviewed six science fiction novels in the New York Times Book Review—my barometer of the elite—and this is what he wrote about them in general:

And although it is admittedly a small sample, after having visited this particular cross section of the fictional galaxy, it's hard not to notice a prevailing atmospheric quality common to many of the stories: So much of this work feels as if it is post-something, pervaded by a sense of living and writing in an era that comes after, of fiction being produced by novelists who can't help feeling that it's getting late or, in some cases, that it's too late. The emphasis here being on the post-, and less on the something, which is variable from writer to writer and from story to story. Sometimes the something is big and vague, and sometimes it's more specifically defined.

It's too late. It's getting late. Like Tomorrowland, we are in deep trouble that we cannot get out of.

They always said that we would run out of resources one day. I never quite imagined that the major resource we would run out of, would be hope.

Title: Underlying Consensus?

Date: 2015-12-17T06:38:00.000-05:00

12/17/2015—Perhaps a consensus is growing underneath the partisan breakdown in American public life. I had a talk with a conservative friend about matters yesterday and I noted real change in both our positions. On global warming, I was told that movement on this issue is irreversible, Republican Party rhetoric to the contrary notwithstanding. Now, I have my doubts about this, but this is a sea change. I don't know whether this is about Pope Francis on global warming or the overwhelming planetary consensus in Paris on warming, but it seems the debate about whether there is global warming, whether human contribute and whether it is serious, is about over. (What to do is another matter). I was even more surprised about terrorism. We agreed that once individuals begin shooting people at random in the name of religion, you no longer really have a police or military issue. You cannot station police everywhere. Nor, as France shows, can you keep such people from obtaining guns. You no longer really have a gun control issue. (France has strict controls and this did not stop the Paris attack). At this point, matters proceed on two fronts. First, there is a theological issue for Islam. Is violent Jihadism genuine Islam or not? Second, Muslims must cooperate in the ending of violent attacks by Muslims. (We disagreed somewhat over whether Republican Party rhetoric was making this more difficult and whether President Obama's policies in the Middle East were to blame for some of the attacks.) As readers of this blog know, I consider the present to be a watershed for Islam. The world is not going to tolerate a religion that foments vicious and random violence. And by world, I include Muslims. Muslims will either take their religion back or leave it, in the long run. Remember, in similar circumstances in the 1700's, Christians in Europe ended the wars of religion by creating the secular state and limiting the public role of religion. Unless the theology of war is defeated theologically and sociologically, Muslims will eventually do the same thing. And my friend and I also agreed that it is dangerous to give the government power to investigate too closely the spouse an American citizen chooses. Yes, occasionally this means a radicalized American will choose a dangerous spouse. But sometimes you have to tolerate shootings in the name of liberty.

Title: Merry Christmas 2015

Date: 2015-12-25T07:32:00.002-05:00

12/25/2015—Readers of this blog know that hallowed secularism will have close connections to traditional, organized religion—especially what might be called the mythic life of our religions. Thus, hallowed secularism in India will be strongly influenced by Hinduism, in the Islamic world, by Islam. The Christian West bears already the strong marks of religion in its secularism. The whole idea of “good without God,” for example, is Christian to its core. At the heart of the mythic life of Christianity, its rhythm, is the movement from Advent/Christmas to Good Friday/Easter. From promise to event, from tragedy to resurrection. It is this rhythm that hallowed secularism in the West must learn from. The major thrust of the Christian myth is its inherent meaningfulness. And that meaningfulness is not negative but positive. The ultimate optimism of Dante’s *Divine Comedy* or Milton’s *Paradise Lost* and *Paradise Regained* is absolutely true to Christian life and thought. The creative power of the Christian West historically can be placed here—at the point of meaning and optimism. It is at this point that the struggle of hallowed secularism with nihilism occurs. It is not clear how that struggle will go. Even Heidegger, the thinker of western post-Christianity, is not clear to me on this crucial point. On meaning, yes. But I have seen him read as a tragic thinker. I believe not. When Heidegger holds out for the West an other beginning, he seems to me to be doing just what hallowed secularism must do—adapting to the myths of its religious origins. Christmas is always an other beginning. The Christ child is always coming. Advent is Heidegger’s emphasis on preparation. That is enough for today. For Christmas Day. How Easter will go is another issue for another day.

Title: Ross Douthat's Critique of Modernity

Date: 2015-12-30T04:20:00.002-05:00

12/30/2015—Last Sunday, New York Times columnist, Ross Douthat, published an op-ed entitled Cracks in the Liberal Order. The column was widely republished, including appearing in the Pittsburgh Post-Gazette. The point of the column was that in the twenty five years since the fall of the Berlin Wall in November, 1989, there has been a liberal consensus about capitalism, the rule of law and democracy. (Douthat does not actually describe the prevailing consensus). But now, all that is under pressure and even if it survives, it will not look impregnable. In Europe especially, the elites of modernity have pushed continental integration, which is now under pressure from violent Islamic extremism, on the one hand, and massive immigration, on the other. No longer can these elites keep political movements of the right and left at bay. Another part of the crack up is the decline of the Pax Americana, which has never looked so weak. In America, Trump on the right and the new New Left of Black Lives Matter and the socialism of Bernie Sanders, shows that also in America, extremism is on the rise. Illiberal politics is growing. Now, quite aside from the slipperiness of all Douthat's terms—modernity goes back a long way and all but Islamic extremists are quite modern—this is a very irresponsible column. I don't mean it is inaccurate. I don't mean that Douthat should have kept such bad news under wraps. And I don't mean that Douthat had a responsibility to come up with some alternatives. No. By irresponsibility, Douthat should have acknowledged his own guilt. How has he contributed to all this? That is the responsibility all of us have. For example, the real source of the crack up in America is not Black protest and flirtations with socialism, but the inability of capitalism to deliver benefits to most people. It's the growth of the 1% that Douthat is not particularly bothered about. And in Europe too, the deal was wealth to the rich as well as security to everyone else. The deal has broken down. Now, how do I practice what I preach? How do I contribute to the crack up? Well, part of the crack up is the weakening of organized religion and I left Judaism. Part of the crack up is the inability of secularity to imagine flourishing social structures for people or to develop even understandings of hope and transcendence that would make sense in a secular world. I certainly have not solved that problem. Yes, undoubtedly a crack up. Much more needs to be said that Douthat is willing to say.



POSTS:
2016

Title: Is Life Inherently Tragic?

Date: 2016-01-03T07:03:00.001-05:00

1/3/2016—The most important questions are sometimes easy to pose. One such question concerns the meaning of a human life. Rather, I guess you could say that the question is whether there is any such meaning or could be?

Apparently alone among animals, humans know that we die. As I age, the slow breakdown of the functions of my body in my 60's heralds that coming end. I will never be as energetic and flexible as when I was younger. As I get older, there will be more functions that break down and daily pains will grow. Eventually I will weaken and then die. As I do, my loves and friends will die along with me. If I live long enough, I will die without contemporaries.

And this is if I am lucky. Life can be, and often is, a lot worse than that at the end.

Is knowledge of this reality tragic? It can feel tragic. Many people feel that it is tragic and don't want to think about it. If they thought about it, they could not answer the question, "What then is the point of living?"

Traditional Christian thinking saw human existence differently. As I wrote on this blog at Christmas, the Christian view is one of comedy—the term used essentially for happy endings. We reunite on the day of resurrection of the body or in heaven before that. Many religions find ways around death as final—as in reincarnation in Hinduism and Buddhism.

For those who view death as the end of consciousness—the end of me—is there anything but bleak despair?

This is an important question for secularists, who view human life as at least premised on natural, material existence. When the brain dies, we die, and nothing of us could survive.

But not all natural religion shares a tragic outlook. One surprising example is early Judaism. This is Judaism before the notion of a Messiah and the end of history took hold. In Genesis, Abraham is told that the meaning of his existence is to produce blessing for all the world through his descendants, who will introduce the world to the one true God and will live in accordance to God's will. He can die secure in the knowledge that his life is the beginning of that chain. He dies knowing that he lived in accord with the truth.

You don't have to be religious to see things this way. In an essay on the whig history of science in the December 17 issue of the New York Review of Books, Steven Weinberg, whom I judge to be among the hardest of atheists, shows that he is dedicated to "the slow and difficult progress that has been made over the centuries in learning how to learn about the world... ." Weinberg is part of that chain in just the way that Abraham is part of the chain of blessing. Indeed, both consider their ways to be blessings for future generations. Marxists used to see things this way-- history was the unfolding of the utopia of communism.

On the other hand, the same NYR issue, in a review of *Selected Poems* by John Updike, shows Updike as increasingly bitter as his life is ending. Updike writes, "Is there anything to write about but human sadness?" He writes this even though, as the reviewer, Jonathan Galassi, points out, Updike had earlier urged us all to excel to perfection in our lives.

The difference between an Updike and a Weinberg or Abraham is an understanding of, and commitment to, truth—enduring truth. For Updike, his writing had not been in the service of any form of truth, but instead, had been his "own brand of magic." He called his life in all its parts "The whole act." And now that beautiful act, that amazing performance, simply ends.

Updike could not even commit to believing that his act was worth imitating. He could not rest in the assurance that he had taught truths to future generations. He could not even believe that he had performed as a human being should. Naturally he died in despair.

The deeper problem for Weinberg is his disdain for purpose. For him, the mistake of early thinkers in trying to learn about the world was the search for purpose. Aristotle and Plato thought "that it is only possible to understand things when one knows their purpose. These ideas stood in the way of learning how to learn about the world."

But Weinberg himself acts like a man who knows the purpose of human life. The purpose of human life is to learn about the world. Not everyone becomes a scientist, but everyone participates somehow in this endeavor. And knowing the world is not just something to do. Knowing the world is valuable in itself. His version of human life is true in just the traditional religious sense. Knowing the world is not just a hobby. Maybe it is not the truest thing a human being can do, but it is one of the true things a human being can do.

We experience our own lives in just such purpose laden ways. In retrospect, our lives feel preordained. Joan Friedberg uses the Yiddish term "bashert" today in the *Post-Gazette* to describe her chance meeting with her future husband in 1949: something that was meant to be. She knows it did not have to happen. But this life she has known is part of her purpose.

Weinberg's problem is that he also believes that reality has no purpose. Reality is just blind forces. But if that is the case, then his belief that his life has purpose is an illusion. Humans just try to impose purpose on meaningless matter. We fool ourselves in order to live without despair.

But this view that we are just fooling ourselves, which Weinberg ought to share but cannot quite accept (I am guessing here), just masks a deeper mystery. Why did humans evolve this way? If the universe is without purpose, why are we purpose seeking in the way we are? How could such a universe produce us?

It is comforting, but I believe also reasonable, to reject this view and to conclude instead that the universe is fit for us. That our searching for meaning can produce worthwhile and lasting results. That the universe is not cold and indifferent but warm and welcoming to us. No, there is no invisible being arranging all this—no God in that sense. But there is some larger whole into which humans and all nature are meant to fit. And if one spends a lifetime searching and studying that whole, one has lived properly. One can even then die with satisfaction. That life is not tragic.

Title: Lessons from New York

Date: 2016-01-09T05:54:00.002-05:00

1/9/2016 -- Greetings from the annual meeting of the American Association of Law Schools. I have been here a few days, which has limited my blogging.

The annual meeting of a powerful and influential organization can teach lessons about the state of American political life, as well as about the morale of the law profession. In terms of law schools, this meeting illustrates the small recovery going on among law schools. The sense of panic from a couple of years ago is absent. A few more frills have returned to the meeting. On the other hand, the experience of the economic downturn in law schools has sharpened class divisions within legal academia. There is an undercurrent that perhaps some law school should close and perhaps other law schools should be teaching students for lesser legal activity. The opening session, for example, expressly dealt with the role of "leading" law schools.

Another lesson from within legal academia is the bourgeois and conventional aspect of American law professors. So, for example, in a session entitled *On Resistance and Recognition*, which was the session title for the important constitutional law section, I expected to hear about illegal activity undertaken to promote a constitutional and/or political vision of some kind. I expected to hear about Occupy Wall Street and the current armed occupation in Oregon of federal property. I expected to hear about classic examples of civil disobedience.

But I heard about nothing of the kind. The closest one got to resistance was something like the celebrated dissent by the late Chief Judge of the New York Court of Appeals, Judith Kaye, in New York's gay marriage case a few years ago.

The political lessons from the annual meeting are two: the recognition of the decline of American public life into political polarization and paralysis and the growing economic inequality in society.

The best example of the recognition of the decline of American public life came in that same constitutional law session. Josh Blackman, a professor of law at South Texas College of Law, even joked about recent surveys that show the decline of Americans' opposition to interracial marriage by their children. Years ago, there was overwhelming opposition but now just 5% or so. In contrast however, years ago only around 5% of Americans objected to the marriage of a child to a member of a political party other than that of the child's parents. But today, around 43% of Americans object to such a marriage.

But no one wants to think about why this is has happened.

The best example of the growing concern about income inequality is a topic yesterday at the parallel meeting of The Federalist Society, which takes place every year at the meeting of the AALS. One session aimed to consider "to what extent the disproportionate increase in income among the very wealthy is due not to market forces but to rent seeking and government policies that are the product of rent seeking. It will also discuss possible solutions."

So conservatives – – The Federalist Society is very much the embodiment of a certain form of conservatism – – are worried. And I would judge that this worry is not just concern about a political problem of spin. I would judge that it represents a genuine concern with the phenomenon of inequality itself and its implications for democracy and the fear, conscious or not, that capitalism and democracy might not be so compatible after all. How very reassuring then to conclude that active government, rather than the market, is the source of the problem.

Title: The Push Back Against Ending Campaign Contribution Limits

Date: 2016-01-17T06:19:00.002-05:00

1/17/2016—I now understand better why there is such a reaction against my proposal to end campaign contribution limits. The pushback I am describing is continuing exclusion of my ideas from books on campaign finance reform and symposia on the same topic. I thought my presentation at Cleveland State last spring was the end of that problem but I now see that that is not the case.

My goal is to end independent political spending. I consider independent spending, rather than contributions to political parties and candidates, to be the real problem of money in the United States. Once contribution limits are ended, candidates and voters can demand that independent money go to candidate campaigns instead.

Now, many people would agree that, given the current context of unlimited contributions to Super PACs, politics in the US would improve if all this money went to candidates instead. So, my plan would be better than the current situation. But promoters of campaign finance reform absolutely refuse to consider my plan as even a temporary move. Why?

I now realize that many people who share my view of the domination of public debate by the interests of the 1% expect to return to a legal regime of general contribution limits and maybe even spending limits (although we have never really had that). So, David Cole, Georgetown Law Professor who now seems to have the old Ronald Dworkin gig at the New York Review of Books, writes in a letter exchange with Burt Neuborne in the December 17, 2015 issue, “When the Supreme Court revises First Amendment doctrine to permit greater regulation of campaign finance—and I do mean when, not if... .” And the Brennan Center has just released a report entitled “5 to 4” that shows how different the law of campaign finance would be if only one vote had changed on the Supreme Court.

People in this mind frame are like Christians expecting the second coming. They cannot be convinced to do anything that would detract from utopia. Ending contribution limits would therefore amount to “surrender”—another term that has been used in excluding my work.

There is a lot going on here and it is hard for me to describe it simply. For one thing, partisans in the finance wars have never specified just what the end game actually is. Forgetting free speech protections for the moment, just what would be the ultimate system of campaign regulation? It is easy for me to see that no structural innovation can end the power of wealth—what David Cole calls in his review of Neuborne’s *Madison’s Music* book, “big money.” The only hope for doing that is a political response. Revitalizing politics by making the candidates the focus is a first step in that direction. Any structural change will just turn independent ads into “issue ads.” The same people who now run independent campaign ads would be running independent issue ads against Obamacare and the Iranian deal. There needs to be a place for this money to go where it participates in the political process rather than replaces it.

And that is why ending contribution limits is a better way forward than any other innovation. The fact that it is the one step that is consistent with current law just means it is also the easiest step to take. But I doubt I can convince campaign finance reform proponents of that.

Title: Secular Rites

Date: 2016-01-24T17:38:00.002-05:00

1/24/2016 – I attended a memorial service yesterday. It was billed as a kind of wake. But it turned out to be a small religious service in a VFW Hall. The event was presided over by an Episcopal priest who was a cousin of the wife of the deceased. It was surprising how orthodox the small service was. The liturgy was taken directly from regular Episcopal rites. It was particularly surprising given that, as far as I know, the deceased was not a churchgoer. The memorial service reminded me of the three things I have noticed in death related matters along more or less secular people. First, no one knows how to do these things except the clergy. And this was shown again yesterday. The presence of the priest lent a real solemnity to the event. He handled it very well and was very satisfying to everyone. So, the clergy do not impose themselves on non-churchgoers. Instead, they are sought out. This is one of the great failures of secular civilization. Second, once they are installed, the clergy go into their usual liturgy. I don't know why I would think otherwise, but how many of the people in the room believe in or understand anything about the resurrection of the dead? About a third of the room knew the responses that the service requires. A VFW Hall is just not a church. However, as my wife says, this bothered no one but me. No one else was listening. Finally, I am struck by how the Christian clergy move immediately to life eternal. It is as if the whole purpose of life is to inherit eternal life, which from a certain point of view you might say is the case. But it is such a peculiar theology. Here you expect something about living. And all you get is this proposal that death is not what it seems. The deceased is now with God and the Saints. To me, this theology of the afterlife is the best reason of all to be secular. If there is a memorial service for me I hope someone says, well, Bruce is dead. You soon will be too. Better get moving.

Title: The End of Trump

Date: 2016-01-27T05:29:00.001-05:00

1/27/2016—There are more important things going on, but I must comment on the demise of Donald Trump. Now, Trump was never going to be President. He is a creature of television and celebrity culture. There was always going to be a time when people got serious. That time seems to have arrived with Trump's walking away from the next Republican debate over the presence of a moderator with whom he has feuded. We can assume that Trump is not as out of control as to actually be walking over this. He probably has decided that he does not need or cannot control the debate format. But the action looks bad in every sense. I don't think ordinary people will like it and that will begin his unravelling. He won't win Iowa. He won't win New Hampshire. Suddenly everyone will wonder why he was an issue. For me, that won't improve matters much. Ruth Ann Dailey wrote in the Post-Gazette that there is a good reason why the Republican establishment is more worried about Senator Cruz than Trump. Cruz is a perversion of the conservative position—I think she called him brutal. Trump is irrelevant to conservatism. So, if the demise of Trump leads to Cruz, it is perhaps not much improvement. But Trump had to go away eventually and now that he is going away, maybe others can emerge.

Title: Journalism Under Attack—Again

Date: 2016-01-30T06:17:00.000-05:00

1/30/2016—See if this sounds familiar. Investigators with an ax to grind against an industry lie about their identities to expose practices that will embarrass the industry before the public. The industry fights back, claiming the reports are selectively edited and seeking criminal prosecution of the investigators. You may be thinking of the indictments in Texas of the two individuals who were involved in making secret recordings of Planned Parenthood that were released to publicly discredit the group. David Daleiden and Sandra Merritt were indicted for tampering with a governmental record, a second-degree felony, and Daleiden was also indicted on the count of prohibition of the purchase and sale of human organs, a class A misdemeanor, according to the Harris County district attorney. But I'm thinking of the efforts by Agribusiness to get undercover employees indicted for taking videos of what goes on inside factory farms. See Agribusiness Wants Cruelty Investigators "Prosecuted to the Fullest Extent of the Law". Daleiden and Merritt insist the actions they took, including the creation of false identities, were part of a legitimate journalistic investigation of the "abortion industry." The charges against them are flimsy. A felony charge for altering a driver's license? And how can anyone be charged with procuring human organs when they had no intent to actually procure them? They were pretending. The same people ready to cheer the indictments of the Planned Parenthood investigators presumably understand the threat of the agribusiness campaign to get investigators prosecuted. But these are basically the same cases. Criminal law is no way to treat people who are trying to inform the American people about abuses in government, business or any other important sector of American life. Businesses that have nothing to hide—have nothing to hide, including Planned Parenthood.

Title: Is This Weimar?

Date: 2016-02-04T06:54:00.002-05:00

2/4/2016—Last night my wife and I went to see the revival of Cabaret playing here in Pittsburgh. Since I teach today, I could not stay to see the second act. But I saw enough. For those of us raised on the movie, this production is raw. What is in the movie a hint of corruption is here transformed into full, bleak nihilism. The line in the play about it seeming that Berlin is little children playing ever more wildly, waiting for parents to put an end to it, must have been in the original production. So, this overdone decadence is not imposed on the musical. But the scene is bleak. Sex and money define everything in life and only the Nazis have any real force. Even the landlady who wishes to marry sings “So What” in the first act. But now think about our musicals and how many of them highlight corruption. Chicago, of course, comes to mind. And there is some of the same theme in La Cage aux Folles (in fact you could think of Cabaret as La Cage meets the Sound of Music). Then there is The Angry Inch. Not all or even many musicals are like this. There is the huge Disney contribution to Broadway. But those musicals are meant to be fluff. They tell us nothing of life. Literally, they are suitable for children. What is missing is the serious musical that considers life and affirms it. For example, South Pacific. Would that be possible today? People still love that musical. It’s amazing that Cabaret premiered in the confident 1960’s—in 1966. But maybe then it was Germany that was the issue. Clearly now, at least, we are meant to feel the impending doom all around us. Is this Weimar? Well, if it is, it is not nearly as much fun. It is not riotous disorder. It is a slow ebbing. After the show, my wife and I watched numerous instances of what looked to us like decline outside the theater. But what is missing in the two contexts is quite similar—hope. Where is hope for the future today?

Title: Don't Fight Mistrust; Deepen It

Date: 2016-02-07T06:40:00.000-05:00

2/7/2016—Jeff Greenfield, described as “a seasoned political journalist and author”, delivered a short video essay Friday night on the PBS Newshour highlighting “the end of trust by Americans in this country’s institutions.” He titled the essay “In Nothing We Trust.” Here is the website description: “Only 19 percent of American trust the government to do the right thing most of the time, according to a recent Pew Research poll, down from 77 percent in 1964. This lack of trust isn’t limited to the government -- Americans today distrust everything from churches to public schools. Journalist Jeff Greenfield offers an essay on how we became a nation of doubters.” You can see the video essay here. I’m showing it to my students in a couple of weeks. There are two questions to ask here. First, is such mistrust a bad thing? As Greenfield admits, Americans have always been skeptical about major institutions. Indeed, the slogan that he plays off of—In God We Trust—suggests that Americans have never trusted human institutions. The framers of the Constitution, if asked whether they trusted government to do the right thing most of the time, might well have also answered no. So, aside from whether American institutions are actually more corrupt in some sense or whether Americans themselves are more suspicious, you would not necessarily be unable to function politically because of such mistrust. Greenfield suggests that mistrust is a deep political problem. Maybe it is not. This leads me to my second question. Why don’t the pollsters ask the obvious follow-up question: do you trust yourself to do the right thing most of the time? The reason that Americans are so angry is that they feel betrayed. Greenfield may be right that we feel our institutions are failing us. But the reason the framers were able to view corrupting forces without this feeling of betrayal is precisely that they did not exempt themselves the way we do today. This is a theological perspective founded on a Protestant view of a fallen world. Americans act as if we are innocent and are betrayed by others. Actually, as Protestant thinkers have always pointed out—most recently perhaps Reinhold Niebuhr--we are not innocent at all. We are easily just as corrupt as a President Clinton or a Volkswagen or any other example you would like. And that would be a much healthier starting point for political life. That starting point might help assuage the anger and self-righteousness that characterizes American political life today. So, don’t fight mistrust. Deepen it.

Title: Is Trump Back? No. But What About Clinton?

Date: 2016-02-10T06:17:00.001-05:00

2/10/2016—The results of the New Hampshire Primary are in. When the dust settles, I still reject the idea that Trump is for real. But we'll see. The problem is that Rubio did so badly. So, Trump still gets to lead a fractured field. Trump only got 35% of the vote and he is no one's second choice. Eventually, the field contracts and he loses. But what about Clinton? Her showing was so bad that another person would drop out. Is there time for someone else to enter? Probably not. We're not going to nominate Sanders. So I guess it will still be Clinton. But a large part of the Party does not want her. That's obvious. I am not demeaning Sanders, but he is a well known neighbor and it is a very good state for him--white and a liberal Democratic Party. This victory does not translate. The problem is Clinton. Her weakness does translate. Even into November.

Title: Was Scalia a Great Justice?

Date: 2016-02-14T06:38:00.001-05:00

2/14/2016—Such is the poverty of foundation in American Law that I don't have any standard—standard of the craft, I mean—to judge whether Justice Scalia should be regarded as a great Justice. Obviously, he was a great intellect and writer, whose opinions on textualism were persuasive to many. He gave coherence to a school of legal interpretation. But that approach—textualism—is silly—maybe I should say radically incomplete—and Justice Scalia did not consistently follow it. On at least one occasion, he admitted that he would not render a textualist opinion if the result were really unconscionable. On some occasions, Scalia ignored textual arguments. On many more occasions, textual arguments that could have been made, never even came up. The world in which campaign contributions and advertising are given first amendment protection and it is unconstitutional to pay a fee to a union, is not in any sense a textualist world. [nor is one in which women are given equal protection]. These were all positions he supported. It is probably fairer to say that Justice Scalia was the usual result driven Justice, who could act out of constitutional principle on certain occasions—as in the flag burning cases when he stood up for the first amendment. But even that decision was not in the least textual. Indeed, it is just as hard to say today how text and history should be used to interpret the Constitution as it was when Justice Scalia first joined the Court. All you can say in his behalf is that upon his death, I would think to ask that question, whereas before, no one would have asked. So, let's celebrate Justice Scalia as a great writer in law, who raised the issues of text and history to be a question in legal interpretation, even if he himself did not embody any consistent approach to text and history.

Title: Does the Constitution Protect the Right to Have More than One Child?

Date: 2016-02-16T05:04:00.002-05:00

2/16/2016—The answer to that question is yes and that answer shows that Justice Scalia was not a textualist and that the Constitution is a living Constitution.

First, is this question worth asking? Of course. Not only has China adopted this policy, there are many people who believe human population is the heart of the threat to the planet. It is easy to imagine limiting children as a legislative response.

Second, since many people who want more children are religious, wouldn't the Free Exercise of Religion Clause in the First Amendment already protect them? The answer is no. Justice Scalia saw to that in the Smith case in 1990, which held that the Constitution does not protect religious people against generally applicable laws.

Now, to answer the question. According to Justice Scalia, there could be no right to abortion, because there is nothing about abortion in the Constitution. But, there is nothing about childbirth either. I think it is fair to say that there is nothing in the text of the Constitution or its amendments that would have been understood when enacted to bar legislative limits on having children. (Someone is free to argue otherwise, but it won't be easy).

When confronted with this question in the Casey case, Justice Scalia relied on "tradition" to establish that such a law would be unconstitutional:

There is, of course, no comparable tradition barring recognition of a "liberty interest" in carrying one's child to term free from state efforts to kill it. For that reason, it does not follow that the Constitution does not protect childbirth simply because it does not protect abortion. The Court's contention, ante, at 2811, that the only way to protect childbirth is to protect abortion shows the utter bankruptcy of constitutional analysis deprived of tradition as a validating factor. It drives one to say that the only way to protect the right to eat is to acknowledge the constitutional right to starve oneself to death.

But who gave judges the authority to enforce tradition? Where is that in the Constitution? Nor was it the understanding of the framers of the Constitution.

More to the point, since traditions change, the Constitution must change. That is, live. If we started slowly—charging a fee for the extra cost more than 5 children impose on the government, for example, or limiting food stamp and welfare payments if you have too many children—we do some of that now—eventually, the right to have many children would erode if it were based on tradition.

For me, it is clear that the reason Justice Scalia understood the Constitution to prevent childbirth restrictions is that such restrictions are morally wrong. And there is a widespread convention against them. So, he would feel it was not just his opinion. But don't tell me about textualism in any sense. And don't tell me the Constitution does not live.

When pressed like this, Justice Scalia would respond to the effect that no method of interpretation is perfect. But a method of interpretation that is meant to limit the discretion of judges, as his was said to be, must always be applied or it does not limit the discretion of judges. Essentially, Justice Scalia was saying, I do what I want but I usually want to follow some kind of historical analysis.

Justice Scalia also meant something else in opposing a living Constitution. He did not want to see Constitutional values erode over time. To that end, he was much more consistently attached. And that seems to me a more defensible position.

But even here, context matters. In interpreting the Second Amendment, Justice Scalia seemed to accept that. His right to bear arms turned out to protect just the sort of right he himself could live with—no right to enter the Supreme Court chamber with a gun.

Title: So How Come Trump is Still Around?

Date: 2016-02-21T06:59:00.001-05:00

2/21/2016--Am I now prepared to say I was wrong to count Trump out a couple of weeks ago on this blog? Not at all. I was a little worried when he began to go into the high 30% range in New Hampshire. But in winning the South Carolina Primary with a little over 32% of the vote, it seems clear that this is his ceiling. So, Trump is still a function of a fractured Republican field. Assuming it shakes out to be Cruz, Rubio and Trump for awhile, Rubio picks up most of the close to 25% of the votes held by the rest of the candidates. So, I still think it is Rubio and that he could win the general election, unfortunately. One more thing. The President should have gone to Scalia's funeral. He is after all a constitutional law professor as well as a politician. He knows what a towering figure Scalia was. Sure, Biden was an ok choice. But why not both go? I think he did not want to be lectured, in effect. Which he would have been. But he did that once to the Justices over Citizens United at a State of the Union Address. This funeral episode is an example of one of the failings of the man whom history will call a great President. Obama does not have the Reagan knack of making himself personally attractive to the people who disagree with him. He lacks the public warm people thing. And it's not just racism. It's him.

Title: Democratic Experimentalism and the Other Beginning

Date: 2016-02-27T15:52:00.002-05:00

2/27/2016—There is a similarity between Martin Heidegger and Roberto Unger. For both of these thinkers the greatest problem for change is the inability to imagine an alternative way of life. Such is the power of Western thought.

So both of these men use phrases that suggests new possibilities. Unger writes in his 1996 book, *What Should Legal Analysis Become?*, of Democratic experimentalism. Democratic experimentalism is the phrase that Unger uses to confront what he calls institutional fetishism, which is “the belief that abstract constitutional conception, like political democracy, the market economy, and a free civil society, and a single natural and necessary institutional expression.” Institutional fetishism prevents even imagining alternative arrangements.

For Heidegger, the intention to provoke thinking toward new possibility is expressed as preparation for the other beginning. Traditional metaphysics as expressed by Hegel and Nietzsche has become exhausted. Its accomplishments have faded. Its words – – all of its great words – are dead.

We see the fatalism that has infected our public life in America by the response to Bernie Sanders. And I include myself in this fatalism. I have become convinced that nothing really can change, except, ironically, for the worse. I do not believe that anything can really be done that will improve the inequality in society and create genuinely flourishing community.

In part, of course, this is a function of age. I will be 64 on Tuesday. This is not generally a time of life for innovation. In other part, it is a function of class. I am well off. Every day, I see on the bus people whose lives are so hard that I find their irrepressible optimism almost unbearable. Yet still I cannot really believe that things will be that different.

The fundamental dishonesty in my pessimism is twofold. First, I have no reason to believe that things cannot change. I have no evidence. Yes, there is the failed experiment of Communism, a horrible and violent experiment. But why should I think that one failed experiment precludes all other experimentation? Second, all the while that I say to myself that nothing can change, social arrangements are changing radically and wildly in favor of the super wealthy. Social arrangements are different in 2016 than they were in 1970. From my perspective, in many important ways, things are better. That is true in matters of social equality.

But, of course, in matters of economic inequality and opportunity things are genuinely far worse.

So, as Lincoln said, we must think anew. Heidegger and Unger are right. Fatalism is sinful. And we must fight this tendency in ourselves before we can do anything about society in general.

Title: Is Trump Going to be the GOP Nominee?

Date: 2016-03-02T05:20:00.002-05:00

2/3/2016—It is still hard for me to accept that Trump is going to be the GOP nominee. Nor is it absolutely guaranteed. Trump will win some of the winner-take-all contests, but not necessarily enough to get to the 1237 necessary. So, as I heard from former Utah Governor Mike Leavitt on NPR yesterday, maybe candidates dropping out is not the best way to stop Trump. Democrats are somewhat happy with what is going on in the Republican Party. But I don't know. If Trump is nominated, he could win—I mean something could happen that would make Hillary unelectable. She could still be indicted. But the most likely outcome of a Trump nomination is that Hillary would pretty easily win the Presidency and that Democrats would benefit in congressional elections as well. Hillary might be a more popular President than President Obama has been. This scenario would repeat what happened in 2008. What would have been a hard race for Obama turned notably easier as the catastrophe with the economy became clear. Obama might well have lost otherwise. Well, Trump might ensure Hillary's election when her negatives would have otherwise rendered her candidacy problematic. Fate favors the Democrats.

Title: Will Negative Ads and so forth Hurt Trump?

Date: 2016-03-05T06:38:00.000-05:00

3/5/2016—Well, I would have thought so. Is Trump immune? We'll see today, I guess. The question is, is Trump actually increasing his support or is he still at the 35% level and wins because he has so many opponents? (Trump is at 35% in Kansas in the latest poll, but might win because the rest of the vote is split). But in Louisiana and Mississippi, polls show him at over 40%--that is a real lead. The question I'm asking is how much Trump has changed everything? Or is it just that his opponents will not cooperate? What would happen if Cruz and Rubio skipped Ohio? If only Rubio faced Trump in Florida? Trump would lose. So, is it Trump or is it the lack of discipline and integrity among the remaining candidates that is leading Trump to the nomination? If Trump is so bad, why can't they put their ambitions aside? And in the case of John Kasich, is it not clear that he will not be the nominee no matter what? So, why would he not tell his supporters to support Cruz or Rubio—whoever in a State has the best chance to beat Trump? Former Utah Governor Leavitt was right that Trump could be beaten piecemeal, but only if the remaining candidates cooperated. Would Trump win a convention in which he lacked 1237 delegates going in? On the one hand, Trump is no one's second choice, so you would think he would not gain delegates on a second ballot. But, Trump is slick and reckless. He has the money and connections to offer jobs to a few delegates who would put him over the top. He might be willing to risk skirting bribery laws.

Title: Bill McKibben Proves Me Right on Campaign Finance, Though He Probably Doesn't Agree

Date: 2016-03-07T17:58:00.002-05:00

3/7/2016—I have been involved in a mostly ineffectual campaign finance debate with Larry Lessig and many others about the problem of money in American politics. A book review by Bill McKibben of Jane Mayer's new book, *Dark Money*, reaffirms me in the belief that I am right and that the mainstream left is mistaken about the fundamental questions of money in politics.

Just to review, and there is a law review article from *Cleveland State Law Review* coming out shortly on these issues, my main proposals are the following. First, that the problem of the domination of American political life by the right is primarily a political, rather than a financial issue. Second, that campaign-finance is only a small part of the ways in which money influences policy in America. Third, that the problem of money in political campaigns is about independent spending, rather than about the totals of spending.

Now, I don't mean that either Bill McKibben or Jane Mayer agrees with me in these issues. But between them, they illustrate the soundness of my beliefs. Take the matter of the political, rather than the financial analysis of the political influence of conservative thought. Jane Mayer begins her book in 1980. It is only from that point on that she examines the rise of big spending on the right. But, it should occur to people that Ronald Reagan was elected overwhelmingly in 1980 basically on the very platform that Jane Mayer attributes to the Koch brothers and others. The success of Ronald Reagan in 1980 strongly suggests that the basic message of low taxes and small government is popular with the American people, who have always, left and right, distrusted government.

In terms of the second point—where and how the power of money manifests— McKibben describes how Mayer shows the Koch Brothers' network at work on the issue of climate change. Basically, "they poured tens of millions of dollars 'into dozens of different organizations fighting climate reform.'" They hid the sources of the money and, if Mayer and McKibben are to be believed, which I do, they basically paid people to lie about climate change and to raise false charges against honest researchers. Obviously, I'm not defending any of this, but it has nothing to do with campaign-finance. Similarly, these right wing networks don't just spend money in political campaigns, they spend a lot of money in lobbying and in providing jobs to out of work former officeholders. All of these activities are obviously protected by the First Amendment. The whole story does, I admit, suggest that perhaps democracy and capitalism cannot coexist, which Karl Marx would certainly have anticipated, but it does not suggest in the slightest that campaign-finance reform is relevant to the power of money in American life.

In terms of the third point—how right-wing money works in American elections—McKibben explains that the \$200 million spent in 2010 by this right-wing network was primarily "Republican-aligned independent groups" running "absurd attack ads." These absurd attack ads are unfair, but the main point is that they only can be run, and only would be run, by independent groups. Candidates by and large don't run these ads.

Remember, my proposal is to eliminate campaign contribution limits. If all of this right-wing money went to candidates, it would be spent giving those candidates an advantage, it is true, but that advantage would only lie in the ability to make policy arguments. It would not be used to

tear down political opponents.

We see the power of attack ads run by independent groups right now in the growing movement to try to stop Donald Trump. I don't hear any liberals complaining. These ads, run by independent groups, will be just as unfair to Trump as they have been unfair in the past to Democrats. This is what we need to rein in. We do not need to overturn Citizens United or SpeechNow to end independent spending. All we need to do is eliminate contribution limits.

Title: Not Trade but Wages

Date: 2016-03-12T10:31:00.000-05:00

3/12/2016—Notice how Bernie Sanders and Donald Trump sound the same on free trade? What in the world has happened to the Democratic Party? Where has all this protectionism come from? I blame the economic leadership of the Party in large part. Finally, today in the PG, Paul Krugman had a modest defense of free trade. It basically came down to this—that America should not renege on prior deals. That is not much of a defense. The point should not be jobs per se but wages—though the two are related. At a 4.9% unemployment rate—practically full employment, it is hard to argue that the problem right now is too few jobs. The problem is wage stagnation. People who attribute wage stagnation to free trade are overlooking how small a portion of GDP trade makes up. Wages have not stagnated because free trade gives employers leverage to move abroad. What has happened is that business is keeping a higher percentage of earnings for itself and shareholders than it used to. Wages are not getting the same percentage of the pie as was true in the past. This, not trade, is what needs to be remedied. The remedy is to push up wages. The simplest way to do this is to raise the federal minimum wage. The slogan should be, America, you deserve a raise. The target should be any candidate for the House who opposes increasing the minimum wage. Once implemented, wages will go up. Beyond that, the only way I know to put upward pressure on wages is to make it easier to unionize. That effort will face the strong pro-business bias of the US Supreme Court. It is unbelievable that some Justices—Alito, for example—equate union bargaining with associational rights under the First Amendment. That is bizarre. For wxample, there are people who oppose the minimum wage. That does not make the minimum was a free speech issue. Once the political activity of unions is removed, as the Court did years ago, there is no free speech issue in requiring fees for matters of economic representation. In any event, the point is that it is not trade that is the issue. The issue is wages. Here, I bet Bernie agrees with Hillary and not Donald.

Title: None

Date: 2016-03-16T22:12:00.000-04:00

Three Conservative Commentators Breaking Out of Conventional Wisdom 3/16/2016—What America needs is candor from its political class. It's getting that and more from Charles Krauthammer, Ross Douthat and David Brooks. It's more candor than you hear from anyone on the left. David Brooks is the least surprising. He has always been a little unusual. He wrote a column last week in which he insisted that the Republican Party not turn to Ted Cruz in order to stop Donald Trump. It's Not Too Late on March 8, 2016. The point of this column was a real effort to reorient the Republican Party: "If the G.O.P. is going to survive as a decent and viable national party, it can't cling to the fading orthodoxy Cruz represents. But it can't shift to ugly Trumpian nationalism, either. It has to find a third alternative: limited but energetic use of government to expand mobility and widen openness and opportunity. That is what Kasich, Rubio, Paul Ryan and others are stumbling toward." The strategy he recommended foundered in Florida. Douthat also pointed to a brokered convention, but one with a much clearer notion of how that happens. He called on the Party elite to reject Trump at the Convention and live with the consequences. The Party Still Decides on March 12, 2016: "Denying [Trump] the nomination would indeed be an ugly exercise, one that would weaken or crush the party's general election chances, and leave the G.O.P. with a long hard climb back up to unity and health. But if that exercise is painful, it's also the correct path to choose. A man so transparently unfit for office should not be placed before the American people as a candidate for president under any kind of imprimatur save his own. And there is no point in even having a party apparatus, no point in all those chairmen and state conventions and delegate rosters, if they cannot be mobilized to prevent 35 percent of the Republican primary electorate from imposing a Trump nomination on the party." Then there is Krauthammer, who characterized Bernie Sanders' description of his Judaism as an indictment of American Judaism. Bernie Sanders, on March 11. Sanders responded to a question about his Jewish identity by referring to the importance to him of the holocaust. Krauthammer was not criticizing him—"I credit him with sincerity and authenticity." But he felt that victimhood could not be a proper basis for Judaism. For Krauthammer, rabbinic practice, which is the orthodox approach, and tikkun olam, prophetic repair of the world, are both valid as authentic Judaism. But not just the holocaust. A very honest, very difficult column to write. The political right had a much better week than you thought.

Title: Maybe Finally a Debate on Trade

Date: 2016-03-20T08:05:00.002-04:00

3/20/2016—Maybe now, finally, America will have its debate on free trade. Since Bernie and Donald sound very similar on the issue, and since so much of the working class anger seems to focus on free trade, and since the trade issue has seriously hurt Hillary, the debate now seems inescapable. Readers of this blog know that I have been writing about the dodges of the free traders for awhile. My favorite foil is Paul Krugman, who, as an economist knows the value of trade, but as a columnist cannot bring himself to challenge the progressive wing of his Party. It is a fair question and now has to be answered. Would America be better off economically if we avoided trade? The answer seems to me so obviously no that I have a hard time treating it as a real question. The problem with the debate is to estimate fairly the alternatives. Those alternatives have to be pretty open trade versus pretty closed trade. You don't get to choose only the favorable aspects of trade because your trading partners would then be doing the same thing. So, if you don't send some manufacturing jobs abroad, you have to ban a lot of imported products. To keep manufacturing air conditioners, you have to ban the import of foreign air conditioners. But then you have to live with expensive air conditioners in all businesses. Eventually, everybody is worse off, including the workers in those more expensive industries. Plus, a lot of lost manufacturing jobs are being lost to innovation, not trade. Robots are costing a lot of jobs and are doing the same thing that trade is blamed for—helping the better educated, better off workers at the expense of workers at the lower end of manufacturing. This exacerbates inequality. But I have not heard any candidate criticizing robots. It is an important debate and the anger of workers, especially the white working class, shows how democracy has failed to promote actual discussion. We can thank Bernie and Donald for making our elites talk about the reality of trade. But Bernie and Donald are still wrong.

Title: Religious Exemptions

Date: 2016-03-25T06:19:00.001-04:00

3/25/2016--In a little noted change, Douglas Laycock of the University of Virginia School of Law, and the country's leading expert on church and state, submitted a brief on behalf of a Baptist group supporting the government's position in the contraception exemption case that was argued in the US Supreme Court on Thursday. Laycock has said that he had never supported the government in such a case before. In this case, a group of religious organizations claim that the exemption they enjoy from covering birth control under Obamacare is not enough. The exemption still renders them complicit in the procurement of birth control by their employees. The details of what they have to do under the exemption are contested. But for me they don't matter. It is clear that the organization does not pay for any medical procedures that they oppose on religious grounds. The problem is the way that the religious organizations say these kinds of cases should be resolved. The cases are being litigated under a statute--the Religious Freedom Restoration Act (RFRA)--that generally prohibits the federal government from placing a substantial burden on the practice of someone's religion unless the Government has an extraordinary justification. The religious organizations seem to be saying that only they can judge whether a government practice is a substantial burden on their religious practice. This is exactly the sort of claim that the late Justice Scalia feared would be made when he wrote in the Smith case in 1990 that religious believers have no constitutional protection against a generally applicable law. It would court anarchy to allow every religious believer to decide the validity of his own claim. Well, here we are. The burden on religious practice, whatever it is under the facts, is exceedingly modest. But the plaintiffs in this case say that such a judgment cannot be made by a Court. Maybe they are right, but if they are right, RFRA will have to be repealed. And eventually it will be. That is why Professor Laycock is siding, this one time, with the government.

Title: Well, If It is a Crime, Why Shouldn't Women Be Punished?

Date: 2016-03-31T06:09:00.002-04:00

3/31/2016—It took Donald Trump to expose the disconnect between the pro-life movement's rhetoric and its policy prescriptions. Trump said yesterday that the mother should be punished if she has an abortion. Then he backed down. Presumably that is finally the end of him. But, if the unborn child is a human being and her mother kills her, it is murder. After birth no one says a mother should not be punished for killing her child. No doctor forces a woman to have an abortion, or even encourages her. Why should the doctor go to jail and not the woman? How about the father who encourages her and pays for the abortion? Does he go to jail? The reason for this disconnect is that *Roe v. Wade* has protected the pro-life movement from having to legislate much of anything besides putting abortion providers out of business. So, how should the doctor be punished? Logically, it should be the death penalty—intentionally taking the life of a child is a capital crime aggravating circumstance in many states. Well, we are not going to do that. So, let's finally admit that while the unborn child is human, abortion is not murder. I call myself pro-life, but that is certainly my position. Maybe the way to handle abortion is with an emergency pill shortly after an unwanted conception, when the ball of cells is not recognizably human. After that, at some point—when is the issue, since most people don't know they are pregnant for awhile—abortion is banned except when the life or health of the mother is at stake. And health would be broadly defined. This would accomplish what I have always wanted—a legal regime in which abortion is discouraged, but is not usually illegal. Even this would not be the actual state of affairs, since some states will have abortion on demand and the right to travel to those states is constitutionally protected. Anyway, we can thank Trump for exposing the false debate we have been having until now.

Title: The Religious Liberty-Gay Rights Problem

Date: 2016-04-07T08:43:00.000-04:00

4/7/2016--First, let me acknowledge that my very heavy semester has been taking a toll on my blogging. Too bad, because so much is going on. On the religious liberty front, America keeps descending into an unworkable model of division. On the one hand, there is the push for protection of gay Americans against discrimination. On the other, there is a push directly for just such discrimination in the name of religious liberty. We see this playing out in several States right now, adding in the transgender thing that I have not understood yet. The first question is, why should any religious believer want to discriminate against gays? I'm not talking about religious institutions themselves and whom they employ. But why would a Christian not sell or rent to a gay person or couple? Landlords don't typically enforce morality in the lives of their tenants. Certainly, any landlord who rents to unmarried couples, which they all do, has no legitimate claim to refuse to rent to a gay couple. The Catholic Church has never supported economic discrimination against gays in the market, for example. And that kind of inconsistency is also why these religious liberty laws are not helpful. Religious believers and their supporters in law now argue that there can be no judgments by courts about the burden being imposed on their religious beliefs. So, even if the discrimination they want to practice makes no sense theologically, they get to discriminate. I don't think America can accept that kind of economic discrimination. I grant that there are two situations in which religious discrimination might be justified. First, religious organizations surely get to decide who should work there. And if they don't want people working for them who publicly flout their principles, that makes sense to me. Second, a wedding is for many people not just a commercial event, but a religious one. So, if a believer does not want to participate in a gay wedding, that seems a different situation. But even here, I expect these matters to sort themselves out eventually. These are pretty dark days in American public life. Part of the problem is the lack of desire for compromise and common ground. Well, sometimes you shouldn't compromise, I know. But usually you should.

Title: The Future of Law School

Date: 2016-04-13T21:59:00.002-04:00

4/13/2016--The ABA has been asking law schools to engage in what they call outcomes assessment. The idea is to operationalize what law schools think they are teaching and then to measure educational success.

Except this is a juvenile task--at least the way it has been presented so far. The bar exam is already a test of whether students learn the substantive law and can communicate analysis in written form. The exam is not everything, but it will do. And students can tell whether they are getting their money's worth on their own.

But, after hearing about this from some experts, I wondered whether the question of outcome might be more deeply posed. Here is what I came up with for Duquesne Law School.

I don't know whether what the ABA is going to be asking of us is trivial or unnecessary or both, but it has provoked a question in me that perhaps justifies last Friday's exercise: what is our goal in educating students at Duquesne Law School? It has always been true that Duquesne educates competent, responsible attorneys whose record of public service is unequalled, certainly unequalled by any law school remotely similar to Duquesne in size and resources.

Now, in a genuinely dark time in American public life, perhaps this tradition should be noted and emphasized in a more determinate way as an intentional institutional outcome, thus giving substance to the ABA's exercise.

To suggest this as part of the long-range response to the ABA, I propose the following remarks.

Outcome: Students will graduate from Duquesne Law School with **values, knowledge** and **skills** to help solve the crisis in American public life.

That there is a crisis in American public life is hard to dispute. This crisis is characterized by hyper partisanship, political gridlock and a toxic and trivialized public square. The constitutional tradition has always placed the legal profession at the center of American public life, with a self-recognized responsibility for the health of self-government. In a sense, the client of the American Law School is government of the people, by the people, and for the people. This form of service is consistent with Duquesne Law School's own mission and the school's professional obligations. To serve this client, Duquesne Law School must itself be a community of faculty and staff that is open and intelligent. Only in that way will our graduates become open and intelligent.

Values: Students will exhibit civility, commitment to the rule of law, a greater commitment to the welfare of the people, responsibility for self-directed, open inquiry, respect for rational analysis and dedication to a life of service to the public good at the different levels of client, legal system, nation and humanity.

I chose civility rather than tolerance because, while civility of discourse is necessary if each member of the community is to be free to engage in open inquiry, there should not be tolerance

of bad ideas. Rather, the Law School's aim should be to foster sound judgment. The rule of law is an important professional commitment, but the Law School motto is a reminder that even the rule of law must not become an ideology on which lives are sacrificed. Open inquiry is hard to maintain in a world brimming with forms of political correctness on all sides and the Law School has not always lived up to this value. Nevertheless, it must remain a realistic goal to be fostered by faculty recruitment as well as by faculty conduct. At this professional level, student self-direction is required, which is to be encouraged by faculty as model as well as instructor.

Knowledge: Students will gain familiarity with the vocabulary, substance, processes and methods of American law, the principles of institution building, mediation and conflict resolution and, most important, the science of human flourishing, including the spiritual life of humanity and the role of humanity in the natural world.

All law students must graduate from law school with a working knowledge of the American legal system in all of its phases. Duquesne Law School graduates must also become expert in sustainable institution-building and conflict resolution that promotes justice. Nevertheless, very little knowledge is generated in law school. Most of the knowledge that is needed for legal education will come from the natural and social sciences. But this knowledge must include respect for spiritual life and the natural world.

Skills: Students will be competent in both the adversarial system and forms of mediation and will develop the capacity to judge when and to what extent each is needed to promote the public good in all of its levels. Students will be able to craft transactional devices needed to operationalize legal rights and duties. Students will have simulated or actual experience in navigating the legal system, structures of government and private economic and social organizations.

Not every student will gain equal levels of skill in all of these areas. But all of these skills are necessary for the graduating student and the curriculum must foster the acquiring of these skills to the extent possible.

Title: Ted Cruz on the Second or Third Ballot

Date: 2016-04-18T05:08:00.002-04:00

4/18/2016—Ross Douthat saw this coming awhile ago. There is really nothing to stop Ted Cruz except Donald Trump on the first ballot. And that probably won't happen because not many Republicans fear a Cruz nomination more than a Trump nomination. And they are right. Cruz is a different kind of candidate. He could win. Calling him a wacko bird, as John McCain did, won't mean much to a lot of voters. The Republicans who don't like him will happily support him compared to Hillary Clinton, whom they really dislike, or Bernie Sanders, should he win the nomination. Well, I guess I should be happy that it will not be Trump, who is a dangerous man in a way Ted Cruz is not. But think about Cruz running the country. He calls for a return to the gold standard. Obviously he denies global warming. Fortunately, he is bad on immigration, which is the only issue that will really hurt him. (I know he is extreme on abortion, but any Republican candidate will have a similar position, or that person could not win the nomination). Cruz also means that the Republican Party will not necessarily have a bad election. After all, Hillary has already shown that she is not a great candidate. Against Trump, Sanders supporters would happily vote for her—would see the necessity of doing so. Not so against Cruz. I am leaving out how Trump supporters will feel about Trump's losing the nomination in a process they may feel is tainted. But how deep was their attachment to Trump? Will they translate Trump's desire to defend social programs into an understanding that Cruz is against their interests? Well, if Hillary understands that dynamic, she could get somewhere. But Hillary is fundamentally a free trader and Trump is not. That will probably foreclose an appeal like that.

Title: The Democrats Are Wrong About Money

Date: 2016-04-23T07:30:00.004-04:00

4/23/2016—Democrats and people on the left generally are wrong about the power of money in public life and it is affecting their analysis of the current problem. Harpers magazine contained a telling statistic this week. When asked the percentage of Republicans who earn \$250,000 a year, Democrats estimate 44%. Of course, given the skewed distribution of wealth in America, this figure could not be accurate. The actual number is 2%. This is important, because it suggests that the power of money to capture the Republican Party is not direct self-interest. No. People are actually persuaded by the Koch Brothers. The problem is political, not structural. But, isn't it dark money? Isn't it hidden? There is certainly some of that. But not much. Mostly, people have been persuaded by arguments, or at least by certain phrases. Low taxes. Small government. The left has been unable to persuade. But can't money just get its way? Does the success of Donald Trump and Bernie Sanders suggest that it can? At least money need not get its way directly in politics. The voters vote—not lobbyists. You can get elected if you can convince the voters. Money has real power. But campaign finance is the least of the problem. Lobbying is a greater potential influence, but even there the main use of the money is persuasion. Powerful economic interests argue that their policies are good for people and they can hire lawyers and economists to make the case. Conservative macroeconomics has always held a certain sway in America. We are not socialists. Ironically, if you want to see the brute power of money, look at how corporations are ganging up on North Carolina because of the anti-gay-and-others law. But, notice that the left has no problem with that. Just wait until the NFL says no Super Bowl in New York until the income tax goes down. Then we will hear about the power of corporations.

Title: The Redemption of American Public Life

Date: 2016-04-30T02:48:00.000-04:00

4/30/2016--Classes ended last night. I will have more to say about my class in Philosophy of Law, which ended with a meeting at my home. It was a marvelous experience, but now the work sparked by that class begins. I told my students on Constitutional Law that it is their task to repair public life in America. The question is whether law school is giving them the tools to do that. Likely the answer to that is no, for now. Or, yes only in part. Or yes, in potential.

One place to start this repair is the acknowledgment of the damage that popular nihilism has done and continues to do. By popular nihilism I refer to the lack of commitment to lasting and powerful truth. (Calling this objective truth raises philosophical issues I am not equipped to deal with at this point. "Lasting" will do to distinguish it from opinion.)

Let's start with the nihilism in political/philosophical discourse. Samuel Freeman responded to this charge against the left in a review in the New York Review a couple of weeks ago. Here is a proposed letter to the editor that I sent in, but which will evidently not be published.

To the Editors:

While there are no factual errors in his review of Roger Scruton's recent book, there are omissions and a lack of nuance that permit Samuel Freeman to doubt that the American left is subject to the "bleak relativism" and opposition to values objectivity of which Scruton accuses it. (The Enemies of Roger Scruton, NYR, April 21) Clearly some of the figures that Professor Freeman mentions are in fact relativists. Certainly this is so, and famously so, of Richard Rorty. It is even true of John Rawls, who had to place the source of justice in the hypothesized human consent of his "original position" because there was for him no source for objective values.

But a lack of commitment to values objectivity is even true, strangely, of one seemingly great exception to the charge: Ronald Dworkin. Yes, Dworkin always insisted that values were real—that cruelty is really wrong, as he wrote in his last work, Religion Without God and in the pages of this magazine. But, in that last work, Dworkin also repeated his long-standing fealty to David Hume's position that one cannot deduce an ought from an is. Unfortunately for Dworkin, just such a deduction from fact to value is necessary for the moral realism that Dworkin defended. We will now never know how Dworkin might have resolved this tension, since it was never pressed on him during his lifetime. (For some reason, Professor Freeman omitted the American philosopher most committed to moral realism—Hilary Putnam. But Putnam grappled with the left's nihilism for much of his life and even mentioning his name would have reminded readers of just how correct Scruton is on this matter).

The context of the left's value relativism is both philosophical and strategically political. Philosophically, it reflects the death of God and the collapse of religion. Strategically, it reflects a cheap advantage in the culture wars, where traditional morality can be easily attacked as mere opinion.

One sees this strategy of undermining traditional values in the left's support for Justice Kennedy's deeply nihilistic majority opinion in *Lawrence v. Texas*, the 2003 case that set aside

criminal penalties for gay sexual relations. Kennedy concluded that condemning conduct a majority considers immoral is not a legitimate government interest. How does Justice Kennedy and the left then imagine that progressive taxation or the protection of wilderness are to be justified? These policies can only be defended properly as morally right. And the same is true of gay rights. The only proper ground to set aside bigotry against gays is for the Supreme Court to call it bigotry. Justice, not tolerance, is what's needed.

This is not just a problem for the left, however. Scruton and the right are also subject to the death of values. Thus, Scruton's commitment to traditional institutions as a source of values is just another form of Rawls' grounding of values in human consensus. Indeed, as I show in a recent article in the Akron Law Review, *The Five Days in June When Values Died in American Law*, the jurisprudence of the right and the jurisprudence of the left are both deeply compromised by the collapse of values. This is a serious matter that cannot be engaged until it is acknowledged. Professor Freeman's misguided defense of the value objectivity of the left just postpones that needed reckoning.

Title: The Response by Professor Freeman

Date: 2016-05-02T18:38:00.004-04:00

5/2/2016—I posted on this blog a letter to the editor that I wrote to the New York Review criticizing Professor Samuel Freeman’s defense of the commitment of several thinkers of the left to forms of moral realism. I claimed that the figures he was defending, most notably John Rawls and Ronald Dworkin, are in fact guilty of this charge of relativism.

Professor Freeman wrote back to me a short, elegant response. I would post it, but I have learned that it is unfair unless one has specific permission to post someone’s email online. So, let me just say that Professor Freeman makes three points: first, that Dworkin and Dworkin relied on the Kantian idealist tradition specifically to derive objective moral truths; second that my own intuitionist approach presupposes the existence of God and is hardly convincing; and third that I am mistaken that liberalism can only be justified by relativist principles. Finally, as an aside, my assertion that moral realism can only be based on the derivation of an ought from an is false. There is God’s will and there is also the account that claims that there are fundamental moral laws or principles that are constitutive of practical reasoning.

My response is not going to be as well organized as his criticism. As for Rawls, speaking only for that aspect of A Theory of Justice that relies on the hypothetical social contract of the original position, it does not produce theories of justice that are objectively true. It is not possible to be certain what principles of justice the participants in the original position would consent to. It might be justice as fairness or it might not. What Rawls is actually relying on is a different moral principle—that people are properly bound by what they consent to or would consent to under certain stated circumstances. But I am not willing to grant that this principle is objectively true.

As to the matter of the justification of liberalism, I don’t mean to suggest that principles of liberalism can only be justified on relativist grounds. I am making a kind of political/rhetorical point that the left in law only does justify liberal principles—in certain matters, such as gay rights—on relativist grounds. If there is some other account, and I believe there must be, Freeman should criticize the reasoning in the Lawrence case. I would like to see that.

Finally, as to the ought and the is. Dworkin is making the point that the existence of God is irrelevant to the moral truths of religion. This is on pages 26-27 of Religion without God. That is probably so. But let us consider Dworkin’s example. When I see someone threatened with danger, I have a moral responsibility to help if I can. But it is not the fact of the danger, but the background moral truth that people have a general duty to prevent suffering, not the mere fact of the threat that created the ought—that I ought to intervene.

But now ask, what is that background duty based on? To extend Dworkin’s analysis, that ought is based on the is that a person is objectively worthy. And thus worthy of saving. A rock is not, but a person is.

I can put this more simply. The principle that Dworkin is supporting is intrinsically both an ought and an is—it is morally wrong to let someone suffer unnecessarily. Or, later, cruelty is wrong.

Dworkin tries to wriggle out of this self-contradiction by changing Hume’s categories. An ought

cannot be justified by “some scientific fact”. (27). But the point of Dworkin’s book is that something like cruelty is a fact. And the moral wrong of letting someone suffer is also a fact.

So, moral obligations do derive from the state of the world.

5/10/2016—The decline of religion in America as a potent social force can be documented in different ways. For one, all those surveys showing a growing group of “nones”—their response to the question, what is your religion? This is so especially among the young. And there is the parallel drop in attendance at formal religious institutions, especially the mainstream Protestant, Catholic and liberal Jewish denominations. But you can also look at the matter of the decline of religion socially, legally and politically. Socially, the fracturing of social structure that lies behind the rise in mortality rates among Whites involves the decline of religion and other forces of hope. David Brooks wrote about that today in the New York Times. Legally, you see the decline in the movement from Establishment Clause type cases, in which religious symbols are used by government, to Free Exercise type cases, in which religious believers are the plaintiffs complaining that government is infringing on their freedom to practice religion. These cases are now brought under statutes. But the most startling aspect of the decline is political. This year’s candidates are the least religious I can remember—although Ronald Reagan did not seem particularly religious. On the Democratic side, Bernie Sanders has not practiced his Jewish faith—although he is much more respectful of religion than some of his secular supporters. Hillary Clinton has tried to convince the voters of her deep Methodist roots, but I doubt most people associate her with Christianity. Then there is Trump, who receives votes from people who identify with religion, but who seems almost totally devoid of basic Biblical knowledge—he called one of Paul’s letters “two” rather second, for example. This year, there really is no religious vote that someone could cast even if she wanted to do so. And the next President will be even less religious, publicly, than President Obama, who was himself not particularly religious. This is an important trend, not likely to reverse any time soon.

Title: How Can There Be a Compromise?

Date: 2016-05-17T05:35:00.002-04:00

5/17/2016—I'm going out on a limb here and saying the Becket Fund for Religious Liberty is an ideological opponent of the Obama Administration. The Becket Fund provides the lead attorneys (maybe there are others, I don't know) in *Zubik v. Burwell*, the challenge to contraception coverage under Obamacare that the US Supreme Court yesterday sent back to the lower courts to try to work out a compromise. But any compromise that is possible would be a win for the Administration, so how could the Becket Fund agree to any such compromise?

Why would any compromise be a win for the Administration? Because any agreement would ensure reproductive services for women employees of religious employers (again, I'm not following the details, but according to the media the services involved are only for women. I guess vasectomies are not provided by Obamacare, which is too bad). And, politically, any compromise would show that the Administration is not an enemy of religious liberty, which is a key ideological plank of conservative opposition to President Obama in particular and Democrats in general. The Becket Fund cannot afford to be part of that.

I am assuming two really serious and related points. First, the Becket Fund is ideological first and does not want to work with liberals to find common ground. Maybe I am wrong about that. If so, I will be happy to apologize. If I am right, the Becket Fund is not alone. Plenty of groups on the left are like that.

Second, and both related and defamatory, I am assuming that the Becket Fund puts its ideology ahead of the interests and desires of its clients. That is a serious charge because it would ordinarily get a lawyer disbarred. And, again, I don't know this to be true. It just looks that way from afar. It is possible that the clients here are just as political and ideological as is the Becket Fund—could that be possible for the Little Sisters of the Poor?

I never understood this case from either a legal or a theological point of view. All the government ever asked of the religious institutions is that they fill out a form claiming they wanted to be exempt from certain coverages. At that point, their insurance companies provided the coverages for free. Economically this made no sense, of course, but no one ever showed that the plaintiffs were charged for anything. How could the plaintiffs have objected to this in the first place? Weren't they really objecting to employees practicing birth control and did not want to say so? Why did they not just fire people who used these coverages? They could, you know.

So, I always thought the plaintiffs were picking a fight on purpose. The fact that the Supreme Court thinks there might possibly be room for compromise suggests to me that the Justices also cannot quite figure out what the problem is for the plaintiffs. But, months from now, when the election has been held, I predict that the cases will be back with no compromise.

Title: The Shining Hour of Conservative Columnists

Date: 2016-05-23T06:55:00.001-04:00

5/23/2016--This will ever be known as the shining hour of conservative columnists. I have four in mind: George F. Will, Ross Douthat, David Brooks and Charles Krauthammer. I don't read these four every day, so it's possible I have missed something. But as far as I have seen, these four have bucked the trend inside the Republican Party to come to terms, and support in some form, Donald Trump as the Party nominee for President. Now, you may say that this is hardly a test--that anyone smart enough to be a columnist would understand how dangerous Trump is. But that attitude misunderstands how politics works. William Safire, a great conservative columnist, once wrote that he supported Republican Party positions even when he had doubts about them because in American politics, to have any influence, you have to be on one side of the two party system. That is basically true. If Trump wins in November, opponents in the Democratic Party will continue to work and will have a home. These four men, conversely, would be marginalized in such an event. Eventually, one way or another, they would cease to have the position they have now. And they know it. Furthermore, at least Will loathes Hillary Clinton and the others have really grave doubts about her fitness to be President. Yet, none of them is criticizing Republicans who are planning to vote for her. The reason they are acting in this way is that they believe what they have been saying for a year--that Trump is not another politician. Not only is his word worth nothing--this is actually not true of politicians in general because they need to be loyal to their Party's coalition--but he has no democratic instincts. Trump really does not understand the restraints of the constitutional system in a way that most politicians take for granted. Think of an even less principled Richard Nixon. Think of putting the IRS in Trump's hands. Well, think of putting any power into his hands, really. Yet, the crawl toward Trump of Republican Party officials is what you would expect of the Party establishment. They know how bad Trump is, but they have nowhere else to go. Right now, they are just hoping he is defeated and they can get back to normal politics. Nor do I believe a Paul Krugman or other liberal columnists would do the same thing if the situation were reversed. These four columnists are loyal to a political tradition independent of Party that I am not sure liberals have. Liberals agree with each other on some policy points, but when they disagree with each other--as on free trade, for example--liberals don't have an abiding ideology to fall back on. So three cheers for the big four: Will, Douthat, Brooks and Krauthammer. Their country owes them a debt.

Title: Anti-Zionism or Anti-Semitism?

Date: 2016-05-30T06:46:00.001-04:00

5/30/2016—The really good newspaper, Pittsburgh's Jewish Chronicle, covers issues of interest to the Jewish community with amazing journalistic integrity. It is not unusual to find Arab and Palestinian voices in the newspaper criticizing the policies of the current government of Israel. And it is common to hear liberal voices within the Jewish community challenging unthinking support for Israel and defending American politicians who want America to play a more balanced role in the Middle East. The debate over the Iranian nuclear accord played out in the pages of that newspaper. I read it every week.

But one area where the magazine either is less even handed, or, perhaps, I don't know what is going on, is the issue of where the line is drawn between a genuinely anti-Zionist stance and antisemitism. By genuinely anti-Zionist, I don't even mean people who feel that the State of Israel should never have existed. The newspaper would undoubtedly call such people anti-Semitic. No, by anti-Zionist, I mean people who believe that the State of Israel has become racist in recent years and is so now. That its treatment of the Palestinian people is shameful—a violent occupation of a civilian population that would like to live in peace. That most Israelis no longer even want a Palestinian State to exist in the West Bank. That Arab Israeli citizens are second class citizens. In other words, that Israel is now a nationalist, dangerous apartheid State.

When this line, which I have never been able to make my mind up about—the Israelis I know are not representative, but they have come reluctantly to the conclusion that there cannot be peace with the Palestinians because Palestinians don't want peace and these Israelis oppose the policies that disadvantage Arab Israeli citizens; that would not be racist in any way—is presented on college campuses, the Jewish Chronicle sometimes characterizes it as anti-Semitic. And many Jews do the same.

One thing is clear. The current government of Israel does not want an independent Palestinian State—for religious reasons (it would be on land some believe was promised by God to the Jewish people) or security reasons (inevitably, such a State would be taken over by fanatics staging attacks on Israel). After all, the current random attacks on Israelis are the reason the consensus in Israel changed against peace.

But is such criticism anti-Semitic? I don't think it starts out that way. There are Jews, after all, who share this view of Israel. But we have to remember the insight of Carl Schmidt, the German/Nazi theorist. He wrote that once you have the friend/enemy distinction, all other oppositions follow. If a people occupy your land or oppose your policies, you eventually come to hate that people and not just what they do.

All this, of course, is miles away from the amazing anti-Semitic ranting that Jewish journalists are beginning to absorb from Trump supporters, which Jonathan Weisman wrote about in the New York Times a few days ago ([here](#)). That stuff is purely nativist. But it is comical. Impossible for me to take seriously as a threat to Jews. Donald Trump himself is a product of New York values. No one ever thought of him as anti-Semitic. The notion is ridiculous.

Well, why doesn't he call out his supporters? For the same reason Lincoln accepted support from anti-immigrant groups. In politics you take all the votes you can get.

Title: The Heart of Hallowed Secularism

Date: 2016-06-04T06:05:00.002-04:00

6/4/2016--I'll be traveling some in June, but I will try to be more faithful in blogging. For my term as Associate Dean at Duquesne Law School is ending and my life in thinking is about to begin again.

This last week I spoke to a group of civilians--non-lawyers--about Judaism as part of a class on Comparative Religion. At the same time, I submitted a proposed paper to the Association of Religiously Affiliated Law Schools to speak at their meeting in September. These two matters come together for the future.

The issue is American Democracy and what is wrong with it. Why are we so angry and disappointed? Some say the reasons are material, but I believe the reasons are basically spiritual. We are a people who are lost. We no longer get our orientation from traditional religion, but we have no substitute. Most secularists--people who don't go to Church or Mosque or Temple or Synagogue--and some who do, subscribe to a worldview that is a dead end. They think they are rationalists--hence the Reason Rally today in Washington.

But they are not rationalists--they are a kind of materialist. They reject God for the silliest reason: that he is invisible and inexplicable. Well so is quantum entanglement.

I am what you might call a minimal materialist. I reject God as a being. But of course all thinking religious people reject God as a being also.

The heart of my alternative to God as a being is hallowed secularism. Secular because there cannot be a quasi-physical realm like a heaven where spirits act like people. Hallowed because this reality is holy--the missing ingredient at the Reason Rally.

My hero is Sarah Blumenthal from the book, City of God, by E.L. Doctorow. Sarah is a liberal rabbi and gives a talk. God is something evolving, she says. And what about humans? We live out a teleology that gives one substantive indication of itself--that we live in moral consequence.

There you have the future of secularism--teleology and moral consequence. Teleology: this reality is not an accident. Yes, it has random features. But look at humans. We are the universe becoming aware of itself. No mere materialism can capture that. And we know what it means to live a moral life. That means that morality is real--not a matter of opinion. So much flows from that.

Of course we disagree in the present about moral questions. But we do a really good job historically in figuring out the right answers to moral questions.

But, shockingly, I could almost describe Judaism as a teleology of moral consequence, too.

Title: Clinton Clinches

Date: 2016-06-09T07:57:00.002-04:00

6/9/2016—I am one of the many Democrats who find it hard to warm up to Hillary Clinton. I believe she is dishonest, or at least manipulative. The email issue, which does not seem to me all that serious by itself, is a continuing symbol of what I don't like about her. She did that to be sure to keep things private that had to be shared, at least with others in the government. It is that kind of control issues that both Clintons have always had problems with. That is why they are known collectively as Clinton, Inc. And there is her support for the Iraq War. Plus, I am tired of the Clinton drama. Bill Clinton was not a good President. His personal behavior was a disgrace, of course, and it did hurt the country. In addition, his new-Democrat policies hurt poor people badly. The very, very poor, especially badly. Now people who have no money often cannot get welfare, even if they have young children. Clinton is partly responsible for all that. Nevertheless, I have no real problem supporting her. It is true, as she said yesterday, that if you want a rise in the minimum wage, you have to support her. Hillary and Bernie are actually very close on domestic economic issues. Trump is just another Republican on the most important economic issues—though he does not support cuts in social security. Even on banking issues, Hillary supports Dodd-Frank. Trump wants to eviscerate it. And then there is global warming. Here, there is no comparison. Hillary supports the Paris Accord. Trump wants to undo it. On all these matters, Trump is mostly just another Republican and Hillary and Bernie are Democrats. Those are the differences that matter in most Presidential elections. So, no, I have no problem supporting Hillary. Of course, there is more. Hillary is a woman. I am proud that a woman is nominated for President and I get to vote for her. And there is one more matter. Donald Trump is a lunatic. So, even if I could not stand Hillary, and even if I did not agree with her on most issues, I would vote for her. So should everyone else.

Title: How Heller Resolves the Gun Issue

Date: 2016-06-16T09:10:00.000-04:00

6/16/2016--I have never been able to convince my fellow gun-control progressives, but *DC v. Heller*, the case that, in 2008, held that Americans have a constitutional right to have a gun, and *McDonald v. Chicago*, which extended *Heller* to the States, helpfully resolves the gun issue. The reason it does so is that it removes the possibility of confiscation of guns from any conversation about gun control. So, in theory, *Heller* should make it easier to enact sensible gun restrictions. To see how this might work in practice, consider the issue of the no-fly list. After the horrible tragedy in Orlando, gun control advocates have renewed calls for suspension of gun purchase rights by persons on the government's no-fly, anti-terrorist watch list. Yesterday, Donald Trump agreed with this position. In the past, this proposal has foundered on the ground that there are mistakes on the no-fly list, which are difficult to get removed. So, many innocent people are on that list and cannot seem to get off. The NRA and its allies do not want that problem exacerbated by adding guns to the list. But now consider the impact of *Heller*. Courts are understandably reluctant to second guess the government about people on the no-fly list. This reluctance cannot be extended to the loss of the right to buy a gun, however, because that is a constitutional right. So, courts will have to grant hearings and put the burden on the government to justify the loss of the right to purchase guns. The net effect will be a list without obvious errors. Progressives have not made this argument because they are afraid that it would entrench *Heller*. Well, guess what? *Heller* is entrenched. It is not a broad right--it allows a ban on concealed carry, for example--but it is robust where it applies. It will not be overruled. And it can be used to expand gun control if one knows how to use it.

Title: Purposeful Obfuscation on Gun Control

Date: 2016-06-22T11:08:00.001-04:00

6/22/2016--Oh, give me a break. I don't usually write on gun control issues--and almost never to take the Party line against the pro-gun side, but the latest Republican proposal on guns is really too much. That proposal, written about today by Ramesh Ponnuru in the Post-Gazette, is that if someone on the terrorist watch list tries to buy a gun, the government has 72 hours to go to a judge with "probable cause" that the person is involved in terrorist plotting (that last phrase is from Ponnuru, but the "probable cause" part is in the bill.) If probable cause is found, the judge bars the sale. This is a joke for quite technical reasons that most Americans will not know but the authors of this absurdity do know. The standard for arrest is probable cause. Therefore, if the government has probable cause to believe anyone is involved in criminal activity, the government already has the power to arrest and charge them, often holding them in jail until the case is heard, in the case of terrorist related charges. So this proposal is literally absurd. Its only purpose is to give Republican legislators something they can vote that sounds good. Ponnuru calls it more respectful of civil liberties and more realistic about errors on the watch list. Maybe Ponnuru just does not understand how the legal system works. But I assure you, the government would never need to act under this proposal if it became law. The government already arrests such persons. The good idea is the one I mentioned in my last entry and which would happen anyway if someone were not permitted to buy guns. The government should have to satisfy some level of scrutiny since the no-fly list is quite overbroad and inaccurate. You would know the Republicans were serious if the proposal were to force the government to satisfy reasonable suspicion, for example. But probable cause--no. That level of scrutiny is all you need for an arrest.

Title: Humans Will Walk On Mars in the Century

Date: 2016-06-28T06:19:00.000-04:00

6/28/2016--Ever since the 1972 Presidential race, I have been out of step with my fellow progressives on the question of space exploration. I believe such exploration is part of the human need to explore and learn. I have never understood why great men like Thomas Berry were opposed to such things. Sure, the race to the moon was wasteful. So what? There were certainly spin offs from scientific breakthroughs that recouped some of the cost. The benefit was incalculable. What is the price tag on the pictures of the Earth from the moon? Especially now, with the inward looking politics of Brexit and the zero sum game approach of Trump and Sanders--no sense that everyone can win--not Mexicans for Trump, not the rich for Sanders--there is need for policies that are expansive. And there is plenty of money. Space exploration is a good thing and costs relatively little. The money it does cost would not have gone into food for the poor, after all. This is all why I greeted yesterday's news of the further development of the Chinese space program with glee. Even hidebound conservatives, even anti-technology liberals, will not want the Chinese to get too far ahead in space. Maybe this Presidential election will not make the promise to go to Mars, but the next one will.

Title: Home and My Uncle William's Funeral

Date: 2016-07-02T10:20:00.002-04:00

7/2/2016—My Uncle William died last week at over 100. He lived a very full life. What was noticeable to me was the difference between his funeral and that of his brother—my father—a few years ago. On the surface, these two men were very similar and led similar lives. Both were talented small businessmen. Both took their Judaism seriously. But the decision of my father to move to Florida, at first for part of the year, and then permanently, altered the parallel trajectory of their lives. When my father moved to Florida, he gradually cut ties with his long-time synagogue. No continuing, long term social institution was substituted. So, by the time my father died, he was in daily connection only with family. In contrast, Uncle William remained an active member of his synagogue and this helped keep him in contact with other people. This made for a much more vibrant social life. You could see this at Uncle William's funeral, which can be viewed online. A large turnout, mostly, but not entirely family. Part of the difference between them was health. My father was very healthy until age 90, but weakened considerably after that. Uncle William was healthy almost until the very end of his life. But part of the difference was moving to Florida. Dad did not substitute a new synagogue there and never resumed regular worship. I'm not sure why. The implications of this for hallowed secularism are troubling. Currently, secularism has no social structure. That is fitting since American secularism tends to be individualistic. But a human life requires a social network. How will secularism manage that challenge?

Title: Black Lives Matter So Much that Police are Needed

Date: 2016-07-08T06:49:00.003-04:00

7/8/2016—this morning brings news of six killings yesterday—two civilians in police shootings in two cities and four fatal shootings of police officers in Dallas, with more officers wounded. It is a horrific reminder of the violence and race issues at the heart of America. But I want to tell a different story. Last month, there was a shooting at a basketball court in the afternoon in a park near my house. At the time, children, overwhelmingly African-American, were practicing for youth football and cheer leading. One girl was wounded. Rather than cancel these youth activities, organizers asked members of the nearby community to show up at the first practice held after the shooting and asked for increased police presence. So, there we all were—mostly older white neighbors, city officials, and several officers—watching kids practicing under the watchful eyes of older black men and women who were doing coaching it looked like they had been doing for years. It was an inspiring sight. That night, there was no question of tensions between the police and the community. The police were there to help hold off the forces of drugs and gangs and guns that were one possible alternative for the hundreds of young black children playing in the bright sunlight. That night another alternative seemed possible, one symbolized by the positive organization of youth sports. That night, my neighborhood, which generally practices social racial segregation amidst its physical integration, was united with hope for these kids and a determination that they not be claimed by the streets. It was also a reminder of what the true threat is to black lives in America. The unfortunate police shootings must be investigated and, finally, wrongful shootings must be punished, which they rarely are. But those are tiny exceptions. Tuesday night, the police officers, black and white, were there to help. And they wanted nothing for those children but a full and healthy life. The real threat had come from the casual violence on the basketball court weeks before. There was the threat that might one day kill and cripple many of these kids.

Title: The Future of Democracy in the Islamic World

Date: 2016-07-16T08:49:00.000-04:00

7/16/2016—I don't trust Recep Tayyip Erdogan as far as I can throw him. He has restricted free speech in Turkey and is planning a strongman Constitution that does not bode well for the future of Democracy. Plus he provoked the conflict with the Kurds. Nevertheless, Erdogan is the elected President in a genuinely free election. So, of course, President Obama, and other NATO allies, condemned the coup attempt. And it apparently failed. The more basic issue is whether there can be an Islamic Democracy. In 1992, the Islamic Front in Algeria appeared to be winning national elections and was forestalled in a coup. In 2006, the US refused to recognize Hamas as the winner in legislative elections in Gaza. In 2013, Morsi was overthrown in a coup in Egypt. The West cannot preach democracy but support or promote coups whenever we don't approve the winners. Remember Tom Lehrer—For might makes right/until they see the light/ they've got to be protected/all their rights respected/till someone we like can be elected—Send the Marines. Eventually, there will be Islamic Democracy. Eventually, a tamed Islam will emerge—just as a tamed Christianity emerged in Europe after the wars of religion in the 16th century. Westerners have to stop saying things like, they don't understand democracy or they are not like us. All people want freedom and democracy. The West has lost confidence. I am not sure why. It may have something to do with the crisis of meaning. Of course democracy in the short run makes everything worse. It flames popular hatreds. But those hatreds are there anyway. Only democracy can defuse them eventually. Only free speech can lead the way to solutions. It is still true that democracies don't go to war with each other. The West solved the problem of religious democracy. We just have to have faith in our own system.

Title: Lessons from My Uncle's Funeral

Date: 2016-07-21T06:21:00.002-04:00

7/21/2016 – – My uncle passed away last weekend. Last night there was a memorial service for him in Ormond Beach Florida in a small synagogue that he and his wife of 68 years have been very active in. The service was reminiscent of the memorial service held for my mother back in 2007. That service was also held in a small synagogue that she had been very active in. When most people moved to Florida, they seem to lose institutional connections to any community. Of course it depends when in life one moves here. But I know a lot of older Jewish people who never set down any roots in Florida at all. Thus, their universe gradually constricts to family members. But my mother and my uncle were not like that. They engaged tremendous energy in their new synagogues. They took up important organizational roles. They gained new friends. And they were both loved in these new settings. There is a lesson here for secular life. My brother and I said to each other, after the service, that there could not be an event like this upon our deaths. Because we do not belong to synagogues, there is no institutional basis to our lives. Well, I suppose you should not live your life so that you have a nice memorial service when you die. On the other hand, my uncle and my mother were actually much happier than most people are because their lives still mattered, even quite late in life. Secular life tends to be institutionally isolating. There is no necessity for that course. But there is nothing built in to prevent it either. In addition, I am sure that both my uncle and my mother, neither of whom was probably religious in belief, also gained a lot of satisfaction from the ritual rhythm of Jewish life. Life is just better when you are going to synagogue every week and celebrating the holidays every year. What are the rituals of secular life going to be? What will be its community? What will be its rhythm? The difference between an empty secularism, which is the direction in which we seem to be heading now, and a hallowed secularism, which this blog is supposed to be about, lies in part in the answers to these questions.

Title: Trump

Date: 2016-07-25T05:42:00.000-04:00

7/25/2016—I was traveling last week and so could not avoid watching some of the Republican National Convention. It is revealing to compare what observers are saying about it now versus how it seemed then.

Several people I respect have said that the convention atmosphere was toxic and unreal. Almost violent. Yet, it seemed strangely normal at the time. This is the power of the “is”. Nothing seems so extraordinary when it is happening.

There are several themes going on. One is Trump himself—self-regarding, ignorant, impulsive and dishonest. A bad President. Strangely bad. Unprecedentedly bad. You can have an ordinary man as President. Truman was ordinary. But Truman served in the army in WWI. It is hard to imagine Trump serving in the military.

Then there is the country. To get elected, Trump has to convince the country that things are a lot worse than they are and that he can fix them. Why is it that he might succeed? In coal country, here in western Pennsylvania, the answer is easy. The jobs were really good and Clinton is the perfect symbol for people who are killing those jobs on purpose for some liberal do-gooding goal of global warming that those people will not pay for but coal workers will. All you need is someone who is willing to lie about global warming and lie about coal jobs. There is plenty of evidence that these voters know they are being lied to. They would rather have someone who cares enough about them to lie.

But for everyone else? Things are just not that bad. FDR said it, at another time that fascism really did threaten democracy—the only thing we have to fear is fear itself. And it would be a lot easier today to actually improve things than it was in 1932.

But, would it be easier? There is something sick in the spirit of the nation today that was not so sick in 1932. You saw it in the hatred toward Hillary at the Republican Convention—and Trump had nothing to do with it. Hillary really had nothing to do with it. The feeling was the same for Bill Clinton, once, and Barack Obama until recently.

But it is also true for the Democrats, to a lesser extent. I’m not speaking about disliking Trump, who really is an exception. Some Democrats feel almost the same way about Hillary that the Republicans do. The policy divisions were so exaggerated in the primary campaign. The political narrative was so unreal. Trade was a symbol. Do all these educated people really want to end foreign trade? What would that even mean? Maybe the recent deal is not great—Krugman cannot make up his mind about it—but NAFTA? That deal strengthened the American auto industry. You can’t have good jobs unless you have an efficient economy. This economy uses foreign trade to become more efficient. This economy uses automation to be more efficient. Both these things eliminate some jobs. But they do work for the economy as a whole. And it is working right now.

Wages are stagnating, but that could be changed. The wealth all this produces just needs to be moved around a little more.

The feeling I have is that we hate each other. The issues are almost beside the point. That is the sickness.

Title: It's Materialism

Date: 2016-07-31T05:58:00.000-04:00

7/31/2016—Last week, David Brooks wrote a column about the nation's problems—and the fact that Hillary may have a hard time understanding them. The major problem is spiritual. Americans feel things are falling apart. But Democrats are too materialistic to recognize and respond to this. Well, Brooks is a conservative—although not this year. So, he does not want the kind of economic changes that Bernie Sanders does. But really what were those changes? A ban on fracking? Breaking up the big banks? Higher taxes on the wealthy? I doubt Brooks has big problems with all that. So, I don't think Brooks is just trying to avoid anything. Hillary will have a hard time responding because she has not been an uplifting figure. And as the columnist Charles Krauthammer wrote yesterday in the Post-Gazette, there is still no case for Hillary—Continuity Now! ? Anyway, I have been sounding this theme for a long time. Once you say that values are subjective, your society is not going to last. You can tell from listening to Hillary from years ago in Arkansas that she does not share that belief. But can she address it?

Title: And One More Thing—The Candidates Are Too Old

Date: 2016-08-03T05:35:00.001-04:00

8/3/2016—I am 64-years old. I just realized that both Presidential candidates are older than I am. Donald Trump is 70; Hillary Clinton is 68. This is ridiculous. Barack Obama will be 55 tomorrow. Happy birthday Mr. President. What difference does this make? The baby boom generation—my generation—has already failed to make the world a better place. Or, if the world is better in some ways, my generation has nothing left to offer. It has led us to where we are now. Something new is needed. That something new is not directly related to age. But it is directly related to technology. Most people in America have now grown up with the Internet and have been formed by it and by all that it implies. Trump and Clinton and I have not. So, whoever wins will be incapable of addressing the new world people are living in. A recent article in the New York Review—In the Depths of the Digital Age, by Edward Mendelson, addresses these matters. I was surprised by how my assumptions are not the assumptions of my students in law school. Just one example—when I was around 13, I spent the summer at Pine Valley Camp in Canada. One day, I found an old Playboy Magazine. It was amazing to me. I had never seen a woman that undressed—she was of course not actually naked. I had never read sexually oriented discussion—it was not very graphic. I hid that magazine so I could get back to it. (Naturally, it disappeared). According to Mendelson, the experiences of a 13-year old American boy today are different. I assumed that. But I never considered how different. Let's just say, there are no such secrets for him. No guilty pleasure. No shame, but no satisfaction either. The world of sex has speeded up and is no longer sweet. It's just one example. But it is enough to remind me that there really are differences today among age groups. If we are at a dead end, then, like John Kennedy, we should at least start with a generational shift. Real change—change you can believe in—is not going to come from Clinton or Trump. There is not anyone I know of in public life who could bring such change—Bernie is even older, after all—but not these two. Ironically, the one voice that can teach us something new about technology is Martin Heidegger. He would be 127 today.

Title: What They're Doing to Bill McKibben

Date: 2016-08-10T03:40:00.004-04:00

8/10/2016—On Sunday, Bill McKibben published an op-ed on how he is being followed and how maybe his daughter is also being followed. Apparently a GOP opposition research group has decided to follow him and one other environmental leader to get embarrassing pictures. The pictures are meant to show that McKibben is a hypocrite—he uses plastic bags for shopping when he forgets to bring cloth etc. McKibben wanted to make the point that we are living in the world of choices corporate power has given us—he mentions Exxon. That is, we have to fly because corporations have blocked fast trains, for example. And to change that world, we have to live in it. So, McKibben wants to show the context. But I am more interested in a minor comment he makes. McKibben is not sure that his daughter is being followed. “When my daughter reports someone taking pictures of her at the airport, it drives me nuts. I have no idea if it’s actually this outfit; common decency would suggest otherwise, but that seems an increasingly rare commodity.” Common decency is an increasingly rare commodity. But I wish McKibben had admitted that in this regard at least, the environmental movement is no different. The left demonizes the corporate leadership at Exxon. They are just liars and criminals—knowing the truth about global warming, they have deliberately misled the nation for their own profit. They will be responsible for many, many deaths. As I write those words, I am certain that this is the attitude on the left because this is my attitude. But if I believe my opponents are evil, I cannot be surprised if my opponents feel the same way. Even if I am right about them, I should not pretend that they are overly zealous but I am not. In other words, if I could change Exxon’s policies by following the CEO and his family around with a camera, wouldn’t I do it? Of course I would. Since common decency is in short supply in our political life, we are going to have to pay very careful attention to our own characters. Since we are not going to change our behaviors, changing our candor might be a good starting point.

Title: The Hottest July in Recorded History

Date: 2016-08-15T18:19:00.002-04:00

8/15/2016—This is like a nightmare—actually, it is a nightmare. NPR just reported on NASA's conclusion today that July 2016 was the hottest July on record. It was 1.5 degrees F higher than the long term average (I believe they use 1950 to 2000 as the benchmark, but I have to check.) Well, no one said defeating global warming would be easy. No one even assured us it would be possible. The difficulty is not the nightmare. Not even the harm is the nightmare. More valuable than any policy, even a crucial policy like fighting global warming, is truth. The denial of global warming in its human causation is the nightmare. I don't get it. There are still people—I am talking about leaders in our government (in fact Donald Trump among many others) who still say the whole notion is made up. They say the warming stopped or even say that the numbers are cooked. But even worse, because seemingly intentionally misleading, there is Paul Ryan, who acknowledges warming but says climates change all the time. It will warm now and will presumably cool later. (This might turn out to be true in the long run—there could always be another ice age). Ryan denies that humans are causing this warming. In other words, scientists in the 1980's noticed the build up of gasses and warned it would warm the planet. Now the planet is warming and what? It is just a coincidence? But why wouldn't Ryan want to do something to stop this? He has kids. Surely he can't really care more about his career than their safety. George Will says people like me want to stifle debate. But you don't debate facts. There is no judgment to bring to bear. Warming is happening or it is not. Humans are causing it or they are not. It is not debating if suddenly in one realm standards of proof are absurdly elevated. We accept many scientific findings with far less warrant than we have about the warming climate. Anyway, go ahead and debate. The scientists do that every day. But I have been hearing since the 1990's that this isn't true—my son's swimming coach used to tell me it is all made up. Yet it continues to get warmer—as if it were true. We can't even start to protect ourselves unless we can reach a consensus that the threat is happening. At that point, there will be tremendous disagreement about what and how much to do. That won't bother me. But the denial. It is a scandal by evil people.

Title: America Would Not Ban the Burkini

Date: 2016-08-18T05:13:00.001-04:00

8/18/2016—Well, for one thing, it would be unconstitutional. In addition, most Americans believe it is one's own decision to wear clothing because of religious beliefs. Some French towns have now banned the clothing a few Muslim women use to go to the beach. The media reports it is something like a wetsuit and covers most of the body. It's just anti-Muslim bigotry. I'm actually happy to see these bans because they demonstrate the intolerance of Europe. Yes, France is an especially anti-religious society, but other European countries have banned the building of Mosques. Now, as the Trump campaign demonstrates, America is not all that tolerant either. But we are more welcoming of people than perhaps any other country in the world. That is our heritage. Back to Europe. For years, some people on the left have promoted a kind of narrative about religion. It was said, that religion is not necessary to be a decent society. Europe was secular and Europe was generous and kind. And happy, as polls showed. The European welfare state is a genuine accomplishment I wish America would emulate. But we now see that it is based on self-interest. We take care of ourselves. The European welfare state is most akin to old people in America (I am one) voting to protect social security. The trick, however, is to build a genuine community, in which other people are protected by public policies. People not like oneself. Now, religiously-oriented America looks a lot better. Does all this mean you can't be good without God? Of course not. It means, however, that religion provides a healthy base for a society. Now that religion is waning, another source of meaning and goodness is urgently needed. Humanism will not cut it. That is just an unjustified worship of oneself.

Title: The Murder Rate is Down

Date: 2016-08-26T05:38:00.001-04:00

8/26/2016—Paul Krugman today in the New York Times criticized Donald Trump for his dystopia. Donald has been going around reaching out to minorities by describing America's cities as unlivable hellholes. He is the law and order candidate. Except, says Krugman, that none of this is true—unlike Donald's earlier claims that there are no manufacturing jobs. Krugman argues that the murder rate (a proxy for violent crime because it is so easy to count) in cities did climb from the 1960's to the 1980's. But after that it dropped and is now back to its earlier-in-the-century rates. Cities are as safe as they have ever been. Good news. But Krugman's larger point is a values point—critics said that the reason crime was up was that Christianity was in decline. You have to restore values, they said. Well, says Krugman, no you don't. For those of us who have been bemoaning nihilism, this raises a question. What does nihilism look like socially? Does nihilism mean that people will go out and kill? That has actually been a criticism of Nietzsche for a long time. See Leopold and Loeb in 1924. Well, maybe nihilism does not look like that. Maybe nihilism looks like our current political dysfunction. Or, maybe it looks like tolerance for gay marriage—not justice, but you-can-do-what-you-want. Maybe nihilism is not so bad. I have to think about all this. One thing looks pretty certain. Organized religion is not headed for a comeback. So, the moral foundations for society will have to come from somewhere else.

Title: Ben-Hur, Done That

Date: 2016-08-30T13:54:00.002-04:00

8/30/2016—Why remake a religious class movie if you are not interested in religion? The new Ben-Hur movie is a lot better than people are saying. Yet, it is absolutely inferior to the 1959 version on several grounds. On the other hand, some choices made by the Director are just different, not inferior, but revealing of a different cultural stage. The one, obvious way that the new version is not as good is the crucial depiction of Jesus. The actor, Rodrigo Santoro, is fine. But he is reminiscent of Liam Neeson in the Episode 1 Star Wars movie—likeable, rugged, intense, good. But the movie chooses an intensely naturalistic portrayal. There is no sense of transcendence—handled with great skill and piety in the 1959 version. The movie makes it seem odd that people were so affected by Jesus. The other naturalism is in Judah Ben-Hur himself. He has no obvious religious feelings in the new movie. This makes little sense in the context of first century Israel. Nor does it make his conversion believable. The other obvious flaw in the movie is just in storytelling. In the 1959 version, all ends were gathered up. For example, the new movie is forced to explain—how the mother and sister are affected by the crucifixion, how they are freed etc. The ways in which the movie makes choices that are revealing involve the role of evil. In the 1959 film—and book, I guess—the event that brings down the house of Hur is an accident—a shingle breaks off. Not only is this poignant, it gives Messala a choice to do the right thing. Conversely, in the new movie, Judah harbors a zealot who shoots Pontius Pilate with an arrow. Obviously, there must be retaliation. This is not as dramatically interesting. (It also makes Judah into a fool). The other problem with Messala is related. Just as he could not do anything for the family even if he had wanted to, he is a compromise figure in general. Messala is portrayed in the new movie as trying to do the right thing but being frustrated. In the 1959 version, Messala makes a real choice for evil and suffers the consequences. This is my final beef with the movie—the happy ending. Yes, in the 1959 version, there is a happy ending, but not for Messala. He is killed in the chariot race. And Judah plays a role in his death. This is not undone by the miracle around the crucifixion. In the new movie, Messala lives and everyone is reunited. This is pablum.

9/6/2016—Mark Miller has done a tremendous service in translating the thought of Bernard Lonergan into a more or less easily digestible bite-size in his book on Lonergan, *The Quest for God and the Good Life* (2013). I highly recommend it. After making the attempt on a couple of occasions to read Lonergan's masterpiece, *Insight*, I believe I am in a position to say that Lonergan is quite a daunting thinker. Mark Miller renders Lonergan much more accessible than he would be to most of us on our own. There is a chance that Lonergan is the key to the renewal of American public life. Lonergan was a great student of the human being and human civilization and their trends. Clearly a religious thinker, Lonergan nevertheless was quite secular in describing what human nature is like and how human thinking works. There is a real naturalism in Lonergan that does not dissolve the possibility of transcendence. It is a serious question how secularism will respond to the emergency of American public life. Democracy is broken and it is not clear how it happened or what can be done about it. Nor is it clear at all that secularism possesses the depth of resources — or maybe I should say the resources the depth — that would permit a renaissance of hope. I am shocked by the absence of hope and presence of cynicism among so many Americans, especially the young. But how can a secularist approach anything with depth? After all, the point of secularism is that this world is all there is. The key to that puzzle must be to recalculate depth in this world. In that regard, a translation of religious terms must prove possible. To see what I mean, consider the following poem by Jesuit Superior General Pedro Arrupe, quoted by Mark Miller in his book (I am unable here to properly format it): Nothing is more practical than finding God, that is, than falling in love in a quite absolute, final way. What you are in love with, what seizes your imagination, will affect everything. It will decide what will get you out of bed in the morning, what you do with your evenings, how you spend your weekends, what you read, whom you know, what breaks your heart, and what amazes you with joy and gratitude. Fall in Love, stay in love, and it will decide everything. The question is, can this poem speak to a nonreligious consciousness?

Title: "moral relativism in its most base form"

Date: 2016-09-14T05:02:00.002-04:00

9/14/2016—Now we're getting somewhere. The liberal op-ed columnist Andrew Rosenthal wrote yesterday in the New York Times (What Trump Supporters Want You to Believe) that Donald Trump's comments praising Putin—"It's a very different system, and I don't happen to like the system, but certainly in that system, he's been a leader. Far more than our president has been a leader."—constitute "moral relativism in its most base form." OK. So, who is not a moral relativist? Who is willing to say that one kind of human life is better than another? Who is willing to say that there is a normative order in the universe? Next you will be willing to condemn gay marriage as unnatural. I'm joking about the last point. But until recently every secularist I have met has been a moral relativist in principle. Since most secularists believe, or think they have to believe, that the Big Bang was an accident without meaning and purpose, there is nothing they can be other than materialists. And materialists are generally forced into moral relativism. To not be a moral relativist, you have to commit to the proposition that some things are right and some things are wrong, not according to human opinion, but according to reality. In principle, religious people believe this—although there are plenty of functional atheists in church, synagogue, mosque and temple—but secularists don't. By the way, the heart of hallowed secularism is a protest against materialism and moral relativism, but this has not exactly caught on yet. So, of course Donald Trump is a moral relativist. But he had good teachers—the very people now criticizing him for it. The left is morally relativist to its core. I don't mean that as an insult but as a description. And it doesn't mean you don't feel strongly about your positions. You just can't justify your positions apart from human will. And, by the way, we now see how moral relativism—which is actually not about morality but the nature of reality—so it is ontological—demoralizes society and undermines healthy politics. Under the domination of this way of thinking, every position is just "what I happen to think." So, genuine persuasion cannot happen. There is no truth of the matter out of which to be persuaded. I can force you or fool you, but I cannot persuade you. This impasse explains a lot about our current, partisan, hate-filled politics.

Title: You Have a Moral Obligation to Vote for Hillary Clinton

Date: 2016-09-21T07:36:00.001-04:00

9/21/2016--I just put the following message up on my door:
You have a moral obligation to vote for Hillary Clinton in order to defeat Donald Trump. I don't care for her, but he has the potential to be Mussolini, with all the damage to America and the world that would follow. In 36 years, I have never before put a political message on my door at school. I know some young people who are not voting or are voting for third party candidates. They must not understand how dangerous Donald Trump is. Trump is impulsive, narcissistic and undisciplined. If he wins, it will vindicate all the illusions about himself that he already has. It's hard to imagine him living within constitutional limits. People complain about Barack Obama's tendency to rule by executive order. Now imagine that ten times worse without the restraint of obeying court orders to stop. And then there is the harm in foreign and military policy. It's hard to quite understand people supporting him. How do they know what he will do if he is elected? He probably does not know. Trump believes in winging it. Trump is the same person he was earlier. It's just that he is having a sane month. And that could allow people to vote for him. But still, Trump doesn't have enough votes to win. It's that Hillary is not holding on to the votes of people who don't like Trump. Mussolini did not come to power through a coup. He was invited to form a government within the democratic process. If all the citizens of Italy devoted to democracy had united and opposed him, he would not have come to power. They undoubtedly did not consider him a serious threat. People who are not voting or are voting for a third party candidate are making the same mistake.

Title: An Open Letter to Fred Barnes

Date: 2016-09-22T06:11:00.004-04:00

9/22/2016—Fred Barnes asks the question, why aren't there any anti-Hillary Dems in the September 5, 2016 Weekly Standard. His point is basically that Republicans are willing to police their own, but Democrats are not. Thus, the outpouring of anti-Trump Republicans and nothing comparable on the Democratic side.

A few points. First, both Democrats and Republican rank and file are about equally dissatisfied with their candidates. According to a Fox poll on September 15, "Eighty percent of Republicans back Trump, and 81 percent of Democrats support Clinton." These are pretty low numbers for a Presidential candidate at this stage of a race. Especially among young voters, dissatisfaction with Secretary Clinton translates into support of third party candidates. So Barnes' premise is wrong about the rank and file.

Second, some of the column confuses policy and character. Most Democrats do not agree that the Clinton foreign policy was "disastrous" as the column puts it. That is just a disagreement, about the Iran nuclear agreement, for example. It's a tough world and a lot has gone wrong. But, the last eight years have contained fewer major mistakes than the previous eight.

Third, not everyone agrees that the Clinton problems are that serious, especially compared to comparable issues with Donald Trump. The Clinton foundation peddled influence, clearly. But nobody got anything. As Paul Krugman put it yesterday, the Trump Foundation engaged in more or less open bribery. Clinton's email scandal shows her as secretive, but not dishonest. The continuing refusal of Trump to release his tax records undoubtedly means he has something to hide—if only how little money he makes and has.

But Barnes is right about Party leadership. Leading Democrats do not talk publically about Clinton's serious personal lapses. The reason for this is obvious—they do not want to do anything to help Donald Trump. The question is, why this lockstep response at the top? This kind of unity is unusual among Democratic Party leadership. It is much more normal for Republicans. So, why the reversal this year?

This gets to the heart of the matter. Speaking for myself—not a Party leader, of course, but an outspoken person. Barnes does not understand who I think Trump is and what a Trump victory would mean. I am not certain that after eight years of Donald Trump, there would be another Presidential election. It took Mussolini around three years before he began to dismantle the democratic structure of pre-war Italy. Unlike Clinton and all the major Republican candidates this year, and unlike President Bush, whom I loathed, I have to worry with Trump about whether he believes in, or understands, constitutional checks and balances.

Barnes surely believes that President Obama rules unconstitutionally by decree. But what does Obama do when a court orders him to stop doing something? He stops. Barnes must be positive that a President Trump would also obey court orders. But I don't have his confidence and I am not willing to take that chance.

Do you think, compared to the possible end of constitutional government in the United States, I

care about Clinton lapses? I don't deny them. I discount them. If Clinton were running against Rubio, I would have to think about them. But with Trump, there is the potential for real harm of the kind that has not been threatened since the 1930's.

Now, I may be wrong about Donald Trump. But let Barnes convince me of that, rather than wondering why more Dems are not anti-Hillary.

Title: A Nihilistic Election

Date: 2016-09-29T05:59:00.002-04:00

9/29/2016—"I feel like the election is just playing the American people." So said a young voter—26—in the New York Times today. This is an expression of powerlessness—it is a feeling that nothing will change. On the other hand, a lot of young people were enthusiastically for Bernie Sanders, so how can I say that the election is nihilistic? Isn't it just that there are two bad nominees by the major Parties? I am actually not sure. It may be that Bernie was attractive because he was not going to actually win. Look at how a fair proportion of his support seems to be going to Gary Johnson, who in one recent poll has 29% of the under 35 vote—a really remarkable figure. But Johnson is very far away from Sanders in terms of substantive political positions. Johnson is the only free trade candidate running. You would think that support would be going to Jill Stein and the Green Party, but it is not, or not nearly as much. So, this makes me feel that a lot of young voting is really protesting. The other thing I don't get is the antipathy toward Clinton. On domestic policy, I don't know of many differences between Sanders and her. For example, is Clinton against single-payer health insurance? Against a \$15 minimum wage? Then again, Johnson is plainly against both. The point of this entry is not criticizing younger voters. (Although I am much afraid of Donald Trump than some of them are). My point here is just thinking about what is going on. In a culture of nihilism, nothing seems to matter. That frees people, even encourages people, to act in unexpected ways. By a culture of nihilism, I don't mean that people are indifferent. I mean that all standards are destroyed. In our terms, the establishment is discredited and may not exist at all. It's what Nietzsche predicted with the death of God. To improve our politics, you have to think at this level.

Title: Three Days at Regent Law School

Date: 2016-10-02T03:56:00.003-04:00

10/2/2016—I have just spent three days—days both inspiring and frustrating—at Regent Law School. I spoke at the Conference of Religiously Affiliated Law Schools and at the 25th Anniversary Symposium of the Regent Law Review. The hospitality was wonderful, for which I wish especially to thank Associate Dean Lynn Kohm and the Law Review. Dean Michael Hernandez is a very thoughtful legal educator and religious thinker. I spoke on Thursday on the Future of Democracy and yesterday on the Obergefell case. The overall impression I received was one of depression, fear and confusion. This religious community is still trying to understand the reality of same sex marriage and the darkness of American political life. I am afraid I was very little help and I would speak differently if I had it to do over again. I will continue to reflect on this blog on my experiences, but right now I can say that the secular community is going to have to come to grips with the question, why tolerate religion—the candid title of Brian Leiter's 2012 book. Until it is realized that the Christian community has something crucial to offer society, it will be unclear why religious groups and individuals should be permitted to discriminate against gay people. Of course there are constitutional and statutory protections and there is a human right to religious expression. Those are already grounds for religious exemptions. But, until those who do not share or understand the religious perspective that homosexuality is unnatural, can acknowledge a positive good in religion that was not present in racial discrimination, the tendency will be to enforce these legal protections grudgingly, as indeed the US Civil Rights Commission has just recommended. Only if the religious communities are understood as a necessary resource will a robust approach become to accommodation be seen as acceptable in the larger, increasingly secular society.

Title: Nihilism Looks Like This

Date: 2016-10-08T07:51:00.002-04:00

10/8/2016—I bear some blame for looking around and crying “nihilism” at everything I see. Well, that’s because all I see is the claim that the universe is just forces. Then I try to figure out what a culture that believes or suspects that looks like. I don’t know what nihilism looks like at the cultural level. But occasionally I get a glimpse and I just did from a Saturday New York Times story about the political fallout of the jobs report that remarked on a curious disconnect. Americans are mad, resentful, dissatisfied etc., especially about the economy. But when you poll Americans about how they individually are doing, we are doing okay and are not angry, including economically. It is as if, says the story, Americans use the economy to make a different kind of judgment about optimism and pessimism toward the future. But in nihilism, the categories of optimism and pessimism are beside the point. There is nothing to be optimistic or pessimistic about. There is no sustaining standard. There is no narrative shape of the universe that might falter (pessimism) or go forward (optimism). In nihilism, you are trapped in a meaningless repetition—Nietzsche: the endless repetition of the same. The first step to healing is to understand where you are. The death of God was a catastrophe. But that doesn’t mean he didn’t die. That God died. I left Judaism because that God died. But what to do? Maybe nothing. Nietzsche also said it would take a thousand years to bury God—we are only a couple of hundred years into nihilism. We can stop congratulating ourselves about how good we can be without God. Religious people, who had more to do with God’s murder than anyone else, can stop congratulating themselves about having been right. That much we can do. Oh, and we can continue to do science with an open spirit. Maybe we will learn that forces do not equal chaos. Or, maybe we will learn that chaos has a shape. Maybe there is a deeper order out of which hope can emerge.

Title: No, Trump Was Not Advocating Sexual Assault

Date: 2016-10-10T05:30:00.002-04:00

10/10/2016—I have not looked at the tape and I don't want to. But I did read the quotes and I agree with the Donald that he was talking about celebrity and power influencing women. He thinks it is fun that "they let you." Having said that I don't think he was advocating criminal conduct, this episode indicates what he thinks about women—they are objects for aggressive male advances. This is news? Why didn't it disqualify him from being President in the first place? But now let's talk about Bill Clinton. He is old news. He is not running for President. And no one knows exactly what he did or didn't do in some of these episodes. Let's assume he also never committed sexual assault. So, like Donald, he is not a criminal. But what about Monica Lewinsky? His treatment of her was exactly what Donald was boasting about. He had power and celebrity—much more than Trump. So, he pushed her into performing a sex act. Then he lied about it to the American people. I don't remember Democrats condemning him. In fact, I remember Democrats making fun of Joe Lieberman because Clinton's conduct so bothered him. And, if Donald should not be President because of these remarks, then why were the Republicans wrong to try to impeach and remove Clinton? The answer is that the Republicans didn't care anything about the sex, or even the lying. It was all politics. And you have to be careful about reversing the political judgments of democracy over personal failings. Well, the same is true here. Donald Trump was chosen by his Party. He has as much right as Clinton to run. Bernie Sanders supporters would say more right—though I don't agree Clinton stole the nomination. She won California fair and square and that was it. This tape is a side show. Yes, it shows Trump is too crude to be President, but much more shows that and he still could win the election.

Title: So, Hallowed Secularism is Getting Somewhere

Date: 2016-10-15T06:05:00.002-04:00

10/15/2016—The biggest problem in addressing the nihilism of modern life is admitting that modernity has led to nihilism. Secularists are sure that the death of God is either a blessing or at least irrelevant to cultural health. But there are indicators that secularists are catching on that something is wrong. One such indicator is Tony Kronman's book, *Confessions of a Born-Again Pagan*. Kronman was dean at Yale Law School in the 1990's. He joined the faculty a year after I graduated, in 1978. So, I don't know him. David Brooks praised the book yesterday in his column. The book sounds enormous—over 1000 pages of thoughtful review of what you could call the non-theistic, religious tradition in the West—I have only seen the Amazon page so far. Brooks says that Kronman ends up a follower of Nietzsche, Spinoza and Whitman. It is exactly the book I could never write—Kronman has become a great teacher of philosophy. And it shows why and how law works to create great generalists. But for Brooks—and undoubtedly for me as well—Kronman is missing the moral: "Personally, I have issues with born-again paganism. Shapeless, it leads to laxness — whatever moral quandary you bring it, it gives back exactly the answer you'd prefer to hear. It throws each person back on himself and leads to self-absorption and atomization, as everybody naturally worships the piece of God that is one's self. Naïve, it neglects the creedal structures that are necessary for those moments when love falters." At the moment, though, so what? The book is a great marker. Secularists who feel the emptiness will now have a place to start. Good for him.

Title: Why Tolerate Religion?

Date: 2016-10-20T06:41:00.003-04:00

10/20/2016—This is the title of Brian Leiter's 2012 book. Leiter is asking why religion receives preferred treatment in most Western democracies in matters like religious exemptions—he uses zoning laws that allow religious institutions to expand but not other institutions and an instance in which a Sikh boy is permitted to carry a ceremonial knife as examples. Leiter concludes that we should treat all claims of conscience the same—something that many people would agree with—and that we should generally not permit any exemptions from laws that promote the general welfare—something many people might disagree with. It is interesting how indifference to religion morphs into indifference toward all claims of conscience. The book is informed overall by Leiter's disdain for religious belief. Such beliefs are irrational at best and harmful to society at worst. This attitude is never itself examined. It is taken for granted. That attitude of entitled secular or liberal judgment about religion is what is most noticeable in the emails hacked from the Presidential campaign of Hillary Clinton. It is not the details of who said what about whom. It is the lack of respect for religion itself. What is missing is any sense of the otherness of religion—that the religious life is not primarily about policies or dogmas at all. In the view of those exchanging the emails, their political opponents are attracted to something like the Catholic Church out of a desire for social reassurance of their place in society. The possibility that religion might radically challenge someone does not occur to them. (This is of course also true of their own religion). The religious life is a spiritual adventure that those outside it do not know. The Christian ideal of a relationship with the absolutely accessible and yet impossibly noble and holy figure of Jesus Christ is a striking instance of this quest. As someone who is no longer a part of this organized quest, you have to wonder about people willing to judge religion—how can they judge when they know so little about it? Anyway, this disdain is the current dominant secular attitude toward religion and it is displayed in the emails. President Obama exhibited something like in 2008 with his comment about clinging to guns and the Bible. The notion of religion as liberation and freedom, which is how its followers once experienced it, is now culturally foreign.

10/27/2016—I sure hope the Democrats win back the Senate. The reason is that conservatives are already making arguments that nothing in the Constitution requires nine Justices—(I read that Michael Stokes Paulsen makes this case at National Review.) This is just the latest willingness of Republicans to shut down the government if things don't go their way. As a constitutional argument, it is not an argument, of course. As the Supreme Court has said many times, the Constitution is supposed to work. The framers would be horrified if they could have foreseen a “faction”—their name for political parties—refusing to perform the role of confirmation of Supreme Court nominees. This is not the same as deciding not to confirm, which if practiced in good faith, is also part of their job. There is a reason why the Republicans will have to practice obstruction rather than actually hearing nominees and voting them down. The American people would catch on that the game was to refuse any Democratic Presidential nominee. I am frustrated because Toomey would be part of this and McGinty lacks the talent to nail him on this. I asked a reporter a few weeks ago to put the question to each candidate—will you promise to actually vote on the nominee of whoever is elected President? But the question is not being put. The people of Pennsylvania are not that partisan and would probably not like the refusal to vote. Plus, if there were votes, the obstruction would break down. Yet, for all my frustrations, there is some sense in the Republican position. This is what happens when you become convinced that there is no possibility of a rule of law. Then the Court is just a power play. Sure, some of these conservatives would say, no, we practice a rule of law, but the other side does not. But this is meaningless. Textualism and historicism are just subjective choices as well. A method you choose for prudential reasons—maybe even legitimate reasons—is a substitute for a rule of law. It is not a rule of law. I could point to *Bush v Gore*. But you see it mostly in the political gerrymander cases. What is textualism there? Sure, you say these cases just happen to give political power to Republicans...give me a break. Once the objectivity of values disappears, it is gone for everyone. The honest conservative knows that even her conscience cannot be trusted.

Title: What Comey Did

Date: 2016-11-02T23:03:00.003-04:00

11/2/2016—I admit that in releasing his letter to Congress, James Comey may have violated Justice Department rules or customs. And he did so as well when, in announcing no criminal case against her in July, he went on to criticize her as careless etc. Nevertheless, having testified before Congress that the investigation was over, how could he not have informed Congress that the investigation had been unexpectedly reopened? This aspect—misleading Congress—is the reason the usual rules of not commenting on ongoing investigations does not apply. As for affecting the election, it is of course ridiculous to accuse him of bias against Secretary Clinton since all he had to do to really hurt her was recommend prosecution. The Justice Department would not have followed the recommendation, but the whole thing would have irretrievably damaged her. Actually, his decision to inform Congress aids Clinton because it shows he is willing to harm her politically and thus retroactively legitimates his decision not to charge her with a crime. Did the letter to Congress lead to the tightening of the race? Yes and no. Yes, it reminds people of the reasons they already have for not liking Clinton. This emboldens Trump supporters and reduces Clinton votes as well. But, on the other hand, the race is tightening largely because Republicans are returning to support their Party's nominee. That was inevitable, letter or not. If only Clinton could be gracious about these things. Why attack Comey? Why not just say you have nothing to hide and welcome the further investigation of emails—especially since Comey never said there was anything there.

Title: "Nobody Believes the Numbers Anyway"

Date: 2016-11-06T06:18:00.001-05:00

11/6/2016—Despite the last minute frantic leaks from the FBI, which Republican politicians will eventually decide they also must deal with as worrisome to civilian control of the government, and despite the fact that some of the allegations are absolutely true—if Chelsea Clinton received classified emails, that is much more serious than the other email charges and Clinton Foundation influence peddling is only marginally less than a crime—and despite the fact that I am now not certain that a President Clinton can actually govern unless President Obama grants her a general pardon to stop all the criminal investigations, which he would not dare to do, I assume Hillary Clinton will win on Tuesday and become the next President.

And that is really a good thing. Of course Donald Trump would be dangerous as President, as most conservative newspaper columnists have said all along in a display of honorable conduct that no Democrat seems to appreciate.

But, all that aside, Donald Trump exemplifies the nihilism at the heart of American life so completely that it is frightening. With him around, let alone as President, what would life be like?

In response to Friday's jobs report—a pretty good one, with 161,000 jobs added, wages up 2.8% over the prior year, unemployment down to 4.9% and the labor participation rate stable if not up—Trump's response was to call the report "an absolute disaster" and, more importantly, adding, "nobody believes the numbers anyway." [[New York Times story here](#)].

Now, of course, Trump undoubtedly did mean that the unemployment rate does not tell the whole story of President Obama's poor economic performance. It is a partial measure. But ever since Jack Welch said much the same thing in a tweet back in 2012 about a jobs report: "Unbelievable jobs numbers..these Chicago guys will do anything..can't debate so change numbers," [see [here](#)] a Republican idea has been that you can't trust government numbers on employment. And that is just one more charge on top of the allegations of pretty much nonexistent vote fraud or other unspecified issues.

As I hope I have said many times on this blog, this kind of destructive skepticism is not partisan. Progressive parents make dark noises about lying government officials on the link between autism and vaccines and otherwise normal African-American leaders speak of government collusion in the crack epidemic.

And just when you think conspiracies are crazy, you have the example of the Pennsylvania legislature manipulating the ballot question for judicial retirement and then lying about it.

It is hopeless to imagine a better world if people assume that everything is a lie and no one acts with good faith. A full page ad run in newspapers by a tea party group says "drain the Washington swamp"—they are not all corrupt in Washington.

So, we live in X-Files world. But I don't want it to get worse. So I will be happy if Trump loses and goes away. Then we have to deal with the situation he merely represents.

Title: Don't Forget that the Game is Still Rigged

Date: 2016-11-10T04:04:00.000-05:00

11/10/2016—While I am glad that Donald Trump acted like a normal person after he won, that does not erase the damage of his prior nihilistic pronouncements—see comments like “the voting is rigged” and nobody believes the numbers anyway.” Imagine the scenario if Trump had lost—the anger, bitterness fanned by right wing media. That anger will return when the normal ups and downs of political life interfere with the Donald’s fantasy commitments, like 4% growth.

The outcome of the election shows the importance in a polarized politics of one Party having Congress and the Presidency. The Republicans can actually enact their program and the country can judge the results. This is good.

But that just shows how much damage the Supreme Court had done in allowing the political gerrymandering of the House of Representatives. There is no reasonable likelihood that the Democrats could ever enjoy the same situation as the Republicans now do, whatever the national vote for Congress. That is bad for democracy. Eventually, the Supreme Court must require reasonable efforts to ensure competitive seats in the House. For now, voting remains rigged.

The election results also show the fundamental health of the Democratic Party—still. Unlike the Republicans when President Obama won in 2008, no major Democratic Party figure called for unrelenting opposition. The Democrats will not generally use the filibuster in the Senate to block Republican Party action—I don’t mean never, just not to block everything. They won’t use it to block Trump’s judicial nominees, for example. This means that the Democratic Party is not dedicated to the failure of government. With that ideology, cooperation is obviously easier. But that also means the Republican Party is really sick at its heart.

But that is changing. Not the Republican side, where the tensions are only temporarily hidden by victory. But on the Democratic side, where voices are calling for just the kind of opposition-for-the-sake of opposition that you would hear if the shoe were on the other foot. Nihilism is growing in the Democratic Party.

For now, things look ok. The Democrats are hurting but the country is in some ways be better off. But all that is temporary. First, the election of a woman President should have already happened and has now been delayed. That is a real harm caused mostly by Hillary’s baggage and Trump’s political acumen. He ran a brilliant campaign. But the Democratic coalition just about still won despite all those votes against Hillary. Any other woman would probably have won. The 2012 electorate was 72% white. This time, 70%. Next time—68%? 67%? The demographic clock is still ticking for the Republican Party.

Which brings us to the next problem. Donald is still Donald. Of course, if he governs well and the Republicans maintain the House and Senate, we will have peace and prosperity for 8 years and all will be well. Then the Republicans will have a new, more diverse coalition, a more pragmatic platform, will deal with global warming in a market friendly way and we will return to the Republican Party domination of the 1920’s. But the Donald is the Donald and that scenario is not too likely.

Title: It Was Jobs, Heroin and Disconnection—Not Racism

Date: 2016-11-13T09:13:00.000-05:00

11/13/2016—If you want to feel better about the election result—well, relatively better—listen to ProPublica reporter Alec MacGillis on NPR weekend edition about white working class voters who voted for Trump overwhelmingly and flipped the Rust Belt, narrowly, to him. ([story here](#))

These voters have real grievances. But many of them voted twice for President Obama and race did not arise once in MacGillis's report. Nor did immigration, really. When immigration came up, the conversation shifted to Mexican heroin, not Mexicans. Undocumented people are not an issue for most of these voters. Nor do they oppose progress for women—in fact mostly they were women. Nor was it any real animus toward Hillary Clinton. Clinton just was part of a faraway establishment that runs things and leaves them out. If you will, President Obama and Donald Trump were obviously not part of that establishment, while Romney and Clinton were. Women candidates might have a harder time reaching them, but a different woman might well have done so.

These voters talked about jobs and the opioid epidemic and, overall, that they have been left behind and don't count.

The question for me is, what accounts for the extraordinary social dislocation and emptiness that MacGillis found? Is it just stagnating wages and lost manufacturing jobs? Or, is it absolutely that, but also something deeper?

Take Erie, for example, which, on election night, former Governor Tom Corbett presciently noted was not voting Democratic enough for Hillary to win Pennsylvania. Erie symbolizes the vote for Trump.

Erie was devastated by the 2008 recession. Its recent peak unemployment rate 11.7% in February, 2010. As late as January, 2013, the unemployment rate was still 10.1%, at a time when the State unemployment rate was only 7.6%. So, Erie was left behind.

Yet, since January 2013, the unemployment rate has been steadily dropping. In April, 2015, the unemployment rate had dropped to 5.5% and the State rate to 5.3%. Erie had mostly recovered.

But, something unexpected then happened. Unemployment went up in the last year in Erie, when it did not nationally—from 4.6% in September, 2015 to 6.4% in September 2016. That increase is not quite what it seems. It is probably in equal parts stagnation in hiring plus an increase in the labor participation rate—people not bothering to look for work are not counted as unemployed, so when they start looking for work, the unemployment rate goes up. But there certainly is no sign of brisk hiring.

So, what is it? Are working people in Erie devastated by economic conditions? It's not great in Erie, but it is not the Great Depression either. Certainly, by itself, economic conditions don't warrant blowing up the whole system, which is partly what a vote for Trump was understood to be.

What does the Democratic Party offer to people in Erie? Jack Kelly, the conservative columnist for the Post-Gazette, wrote today that all the Dems offered was bathrooms for transgendered people. He was making the point that the Democratic Party had lost touch with ordinary working people. By implication, it was only Trump's racist and misogynist personality that kept the race as close as it was. White working class voters did not share these views, but these views did not repulse them enough not to vote for Trump—Trump even got a fair share of votes from people who said he was unqualified to be President.

From this perspective, Hillary's error was running against Trump rather than against his policies—his opposition to an increase in the minimum wage, his corporate tax cuts and so forth. Trump's personal failings misled Hillary into thinking Trump could be defeated personally rather than as a Republican, with typical Republican positions on many issues.

Part of the reason for the misdirection was that Hillary did not want to talk about two issues in particular: trade and global warming. This reflects both the schizophrenia in the Democratic Party and Hillary's lack of candor. On trade, Hillary clearly was not telling the truth about her genuine leanings. She is a free trade advocate and would have been better off defending trade. She lost the anti-trade vote anyway. On global warming, her refusal to engage the job losses that climate change requires led many workers to conclude she did not care. Hillary had to acknowledge the pain and loss and ask for sacrifice for the sake of our grandchildren—plus offering something to climate change and trade displaced workers—something Republicans also reject.

Two more points. First, it was not Comey and Clinton looks small invoking him as the reason she lost. I'm sure his letter to Congress hurt her. But she should be asking why the election was so close that the letter mattered so much. Hillary had not closed the deal one week before the election and that is why late deciding voters broke against her. On the other hand, Hillary did not run a bad campaign. She won the popular vote after all. The Democratic coalition is still the dominant coalition. Translating that national strength into electoral success should not be an impossible task.

Where does all this leave my concern about nihilism—the decline of all traditional values and institutions that has resulted globally from the death of God and the inability of secularists and non-affiliated people to fill the God-shaped void? I believe this nihilism is why the rust belt is in such despair. Community was broken—not just the job market.

Title: The End of the Spritual Thirst for Democracy

Date: 2016-11-16T05:03:00.000-05:00

11/16/2016—Look, Donald Trump won fair and square. If the system had required that he get more votes than Hillary Clinton, he would have campaigned differently. Maybe he could have gotten more than she. But I doubt it. Clinton also did not campaign to get more votes than Trump—but she did. About a million more at this point. In the future, it might get even harder for a Republican to win a majority of the national vote. That is subject to change, of course. Trump could run much better in 2020—as President Bush did in 2004, when he broke the 50% level in popular vote. But, I believe that after 2000 and now 2016, the Republican Party will cling to the Electoral College and denigrate the obvious democratic principle that the candidate with the most votes should win. To justify their bad faith, Republicans will have to develop an anti-democratic philosophy, which the Party has already begun to do, with an anti-voter agenda of gerrymandering, voter id and anti-immigration. The Republican Party fears immigration more for the votes it brings Democrats than any other reason. Let me be clear, as I have written before—both Parties have lost their faith in democracy. Their commitment to it. That is why Democrats don't try to convince voters of anything—they just try to get their base to vote. That is reducing an election to a technical matter. That is also why environmentalists have turned to the courts—and gay rights proponents too. No one really cares about popular vindication anymore. But the Republican anti-democratic turn is more immediate and direct. You may even see a revival of the cheat of turning a couple of blue states to congressional district electors in Presidential elections. If a couple of blue states did that and no red states, the Republican candidate for President would always win and the national vote would be irrelevant. Once you break the commitment to democracy, why not go all the way? Here's what the late songwriter Leonard Cohen wrote about Democracy— It's coming to America first, the cradle of the best and of the worst. It there they got the range and the machinery for change and it's there they got the spiritual thirst. But we don't any longer have the spiritual thirst for democracy.

11/19/2016—We'll have to get to Donald Trump's horrible national security picks later. We'll have to get to the attempt to destroy Medicare later also. What is amazing is the apparent willingness of the Republican congressional majority to now provide the funds for a new infrastructure program because Donald Trump, a Republican, is President. Here is the way healthy politics is supposed to work. If your opponent proposes a program that you feel is good for the country, you support it for that reason. Here, President Obama proposed such spending consistently and the Republicans in Congress unanimously opposed it. But now it is ok to spend this money because a Democrat will not get the credit. Putting politics before the good of the country is the worst thing a politician can do. I am not blaming President Trump for this. He, after all, is just proposing infrastructure spending to help the country. Of course, there is another possibility. It could be that Republicans know this spending program would not be good for the country—it will increase the deficit to no necessary purpose since the economy is already growing. It could be that Republican opposition to the Obama stimulus was sincere. Is this really any better? If this is the case, then the Republican majority is now willing to hurt the country because a Republican President wants to do so. In either case, the Republican congressional leadership has shown itself to be utterly corrupt. At least so far. Maybe they are planning their opposition behind the scene. Maybe they are planning a deal in which infrastructure spending is traded for ending Medicare—but then it would be President Trump who would be the corrupt liar for going back on his promise to defend social security and Medicare. You have to feel bad for the American people with leaders like these.

Title: Perfect Paranoia—Jill Stein's Recount

Date: 2016-11-27T05:41:00.003-05:00

11/27/2016—A short break from the blog during Thanksgiving. I hope my readers had a happy holiday. The spirit of irrationality that is present all over America and the West has a new illustration—the request for a recount in Wisconsin by the Green Party candidate, Jill Stein, with requests to follow in Pennsylvania and Michigan if Clinton is shown to have won Wisconsin. On the one hand, this is pretty funny, since as Robert Reich has pointed out, without Jill Stein on the ballot, Hillary might have easily won all three States. So why should Jill Stein care now whether Hillary won or not? Stein, after all, did not win these States. This recount is an admission that Trump is a threat and it really mattered that people vote for Hillary. Well, then, isn't Jill Stein and the Green Party and her supporters to blame, rather than shadowy Russian hackers? Anyway, despite these "experts" and their alleged showings of paper ballot discrepancies in the voting, there was nothing wrong with the election results. How exactly was this hacking supposed to have happened? Voting machines are not connected to the Internet. Remember a few weeks ago, when election officials were assuring the public that voting was safe and accurate and Donald Trump was darkly suggesting problems with the voting. Progressives then said this was irrational paranoia on the Right. Still is, now on the Left. All of this is part of the prevailing loss of faith in Truth. Everything is now dark forces rather than simple cause and effect for which people are responsible. Lots of reasons Trump won. The Electoral College, Progressive indifference to working people, great strategy by Trump, somewhat low turnout among Democratic voters—and the Green Party (though largely offset by the Libertarian Party). And no doubt other things. Lots of reasons except hackers. I'm just sorry the Clinton campaign has gone along with this.

Title: More Paranoia: "millions" of illegal voters

Date: 2016-11-30T04:42:00.000-05:00

11/30/2016--On Sunday, I wrote about the paranoia of Jill Stein and her supporters, including the Clinton campaign, sort of, in requesting a recount of some States because of fears that the voting totals were hacked. As Newt Gingrich, whom I don't usually quote, put it on Fox News, "You're seeing the sort of nutty wing of the Democratic Party begin to take over." How, I wonder, did Gingrich then respond to the tweet of President-elect Trump on Sunday: "In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally." I have not seen anyone dispute that Trump did write this. I would have hoped that it goes without saying that there were not millions of illegal votes cast in this election. Donald lost the popular vote fair and square, just like he won the Electoral College fair and square. You could even add that he could have won the popular vote if he had set out to do so but that it was irrelevant in our electoral system. I doubt that, but no one knows for sure. What do we learn from this episode? First, and it cannot be said often enough, Truth is genuinely in danger in America. People on the left and on the right will say and do anything if it feels right to them. The secular left that loves to claim that only religious people dispute science, or the facts, or evidence, or the new one--the date--better reformulate and reeducate. Denial of Truth is everywhere. Second, there is such a thing as a bad democratic conscience. Trump has it. Trump knows that the candidate with the most votes has a moral claim on the Office of President. This knowledge eats at him. That is why he made this silly statement. Eventually, after I am dead, this reality will lead America to direct election of the President. But, before that happens, the Republican Party is going to work very hard at denying the moral claim of democracy. That, along with abolishing or limiting healthcare for millions of people and other terrible policies of the new Administration, will be one more bad thing for this country.

Title: The Supreme Court and Politics

Date: 2016-12-04T06:41:00.001-05:00

"On April 8, 2017, the Pepperdine Law Review will hold its annual symposium on the question of whether the political deadlock over the Merrick Garland nomination provides a stark indication the U.S. Supreme Court has become an unduly political institution, and, if so, what internal and external reforms might address this problem. We invite all interested scholars to submit a relevant proposal to present at the symposium and be considered for publication in a special edition of our law review."

I submitted a proposal for this program, which was selected. So, I will be presenting on April 8, with a paper to be published in the Pepperdine Law Review. Below is the proposal--the reader will see that I reject some of the terms of the issue, as presented by the announcement.

Ideological Domination in an Age of Nihilism

To ask whether the U.S. Supreme Court has become "unduly political" is to confuse the partisan with the ideological. In *Bush v. Gore*, all of the Justices voted in a politically partisan manner, jettisoning established legal commitments to promote the goals of the political Parties. Such partisanship is reprehensible, but as *Hamdi v. Rumsfeld* illustrates, thankfully rare.

The refusal of the Republican leadership in the Senate to schedule a nomination vote for Merrick Garland does not reflect a fear of such partisanship from Judge Garland. Instead, this paralysis reflects a realistic appreciation of the ideological cohesion currently present in the highest stratum of American law. It is utterly predictable that any nominee from a Democratic President today will share a laundry list of fully formed commitments—defending *Roe v. Wade* and *Obergefeld v. Hodges* while overturning *Citizens United v. FEC*, for example—just as any nominee from a Republican President will manifest a commitment to textualism and originalism that yields the opposite case outcomes. Since the same ideological commitments control the political Parties, it is reasonable for Republicans to hold out to see whether their side might prevail in the coming Presidential election.

Sanctimonious talk about the rule of law, or the qualifications of a judicial nominee, only hide these political and legal realities. Our situation is not a government of men rather than of law. It is a government of ruling ideologies. The resulting deadlock and political decline is clearly harmful, but a solution is hard to imagine. There are no "specific reform measures."

Certainly no solution can be expected from law professors. Law schools are the engines of this ideological cohesion. Legal commitments touching on political issues are completely predictable there. Legal arguments by law professors are usually fabrications in support of an edifice of ideology.

There is one fundamental commitment that unites law professors and judges. It is that normative commitments are the product of subjectivity—human will. Conservative jurisprudence adapts to this insight by attempting to impose arbitrary rules of interpretation to restrict judicial discretion. Liberal jurisprudence, which is much less developed, tends to adapt by substituting process and equality concerns for normative argument. Everyone agrees that judgment is a

mask for power.

Could this context change? The reason that science largely avoids ideological hardening, despite tendencies in that direction, is that science has a subject matter of study. Despite academic calls for empirical research, the legal profession lacks similar understanding of the subject matter of law. Even worse, our ideological straightjacket blocks appreciation that the lack of a subject matter is the problem and prevents any movement toward its resolution.

There was an earlier tradition in law, represented by figures such as Charles Black and Justice John Harlan, which assumed that something akin to Truth could be sought in law, as it could be sought elsewhere. This normative tradition has now collapsed and cannot simply be reinstated. To that extent, Nietzsche is right.

But this is not the last word. There are new starting points, represented by thinkers such as Bernard Lonergan and Martin Heidegger, promising other ways of investigating human flourishing. Even to begin down that path, however, law professors would have to be willing to learn something new.

Title: Mark Lilla Discovers the Necessity of Truth

Date: 2016-12-07T05:23:00.002-05:00

12/7/2016--What is happening to our politics is that we are cracking up because we don't any longer believe in Truth. Here is a quote from the New York Times about the fake news that many people now read: "The larger problem, experts say, is more insidious. Fake news, and the proliferation of raw opinion that passes for news, is creating confusion, punching holes in what is true, causing a kind of fun house effect that leaves the reader doubting everything." The writer is presumably unaware that this is no accident. The phrase "doubt everything" was the method of Descartes, who is, in many ways the spiritual ancestor of today's progressives. In other words, smart people brought us to this situation, not hoi polloi. Which brings me to Mark Lilla, one of those smart persons. Lilla had the nerve to write a story on November 20 in the New York Times Sunday Review about the End of Identity Liberalism. A healthy politics has to be about commonality, he wrote. But, back in 2007, in his book, the Stillborn God, Lilla sounded much more like the New Atheist he was then. Lilla's earlier view was that politics was about the pursuit of individual conceptions of the good. He would have said then that there is no Truth, there are just the truths people choose. Of course people change their minds. Maybe Lilla has done so. But it would be helpful if Lilla would spend one moment reflecting publicly—I presume he has done so privately—on how he contributed to the current disaster. Someone like Lilla could really cause some soul searching.

Title: The Businessman's Economy

Date: 2016-12-10T06:18:00.000-05:00

12/10/2016—The markets are really happy with Trump. The New York Times had a story today about the golden age for business. Lower taxes. No regulations. Infrastructure spending. Energy production. No raised minimum wage. Yay. This is really silly and you have to wonder about the maturity of business people. For one thing, businesses have been raising wages in response to the market, not the minimum wage, which has not gone up. For another, energy production is already up in the US. We are awash in oil and gas. This infrastructure spending is just Keynesian deficit spending the economy is in no need of—though infrastructure spending that is paid for is greatly needed. We did all this under President Reagan and it led to an expanding deficit. Then there are the corresponding harms. Working people, the ones who supported Trump, are the ones who will be hurt. It is their wages that will not go up and they are the ones who live near toxic projects. President-elect Trump is in Louisiana and that is interesting because the book about the tea party in Louisiana—Strangers in Their Own Land—makes the point that many people there respect and admire business even when it is harming them. I don't get that but the slogan used to be, the business of America is business. So, these actions will not necessarily make Trump supporters unhappy with him. If they mess with Medicare or Social Security on the other hand, older people will end his political career. As for the planet, everybody knows and not everybody cares. I don't have sympathy for people, even working people with tough lives, who sell out their own grandchildren for short term benefits for themselves. I'll talk more about the questionnaire in the Energy Department in another entry.

Title: The Fed and the President Elect

Date: 2016-12-16T07:28:00.001-05:00

12/16/2016--To be fair, there was only a little Republican Party criticism of the Fed for raising interest rates and forecasting future increases. But in the past, Republicans called for more such increases. On the other hand, Democrats like Krugman used to criticize rate increases as premature and I did not see anything from him either. Thus the partisan hypocrisy of Washington. The Alice-in-Wonderland aspect of what is going on is that President elect Trump has called recent job creation "terrible" when it was in fact pretty good. The Fed is actually looking at the economy. Enough voters experienced a bad economy or were convinced that it was bad despite their own ok situation to elect Trump. But that does not mean the economy is performing that badly. The problem in the economy is distributing its benefits, not its overall performance. That could be fixed pretty simply--raising the minimum wage would help.

Title: I Don't Understand Charles Krauthammer

Date: 2016-12-17T15:54:00.001-05:00

12/17/2016—I greatly admire Charles Krauthammer and I always have. He rose to greatness in my view in regard to Donald Trump. You can't blame Trump on him. But I don't understand his jokey condescension about global warming. Today's column in the PG referred to "belief" in global warming as the left's "religious test"—as if the truth or falseness of global warming was something to be debated. It's true or false and it does not matter one bit what any politician or voter thinks about it. As Thomas More says in the play, if the Earth is round, will the King's command flatten it? What I don't get is this—what episode in history defines Charles Krauthammer? Given his love of Churchill, whom I believe he once called the man of the century, Krauthammer has to resonate to the rejection of Churchill's warnings about Hitler in the run up to the War. Can't Krauthammer see that his breezy joking about global warming is the same attitude the elite took to Churchill—"Oh that's Churchill going on and on about Hitler again." Even Krauthammer must admit that if it true that man is warming Earth's climate, the threat is much greater than anything a Hitler could do. Of course it may not be true. But the threat is nothing to make light of. If the scientific consensus is wrong, great. Churchill could have been wrong about Hitler, too. But you don't make fun of people worrying about something very much worth worrying about. It's going to be the tragedy of Krauthammer's life when he realizes that he is playing the role of Chamberlain—trying to appease global warming, hoping against hope that we don't have to change and get ready for the threat, even when the evidence began to mount. And while we are at it, it is a stupid misunderstanding of everything we know about the framers to invoke them against national action on global warming. They created a federal government in order to deal with genuine national threats. Don't invoke them against EPA action. They never expected the States to deal with threats to the Union. If you say Congress has to do this rather than unelected bureaucrats, I could not agree more. So, stop enabling the traitorous inaction of the Republican Party on global warming. Or, are you going to wait until the bombs actually start falling—the ice is already melting all over the world.

12/20/2016—Now that the Electoral College has voted and Donald Trump has actually been elected, it is time to consider the role of democracy in the United States. Here is the NBC news lead: ***** President-Elect Trump Wins Electoral College Despite Cries for Dissent The Electoral College formalized Donald Trump's election victory on Monday despite protests around the country to encourage GOP electors to abandon the Republican. The president-elect easily racked up the 270 electoral votes needed to send him to the White House. Interest in the normally mundane voting process spiked this year as opposition to Trump continues to fester, fueled by Clinton's success in capturing over 2.6 million more votes than her Republican opponent. "Today marks a historic electoral landslide victory in our nation's democracy," Trump said in a statement. "I thank the American people for their overwhelming vote to elect me as their next President of the United States." ***** The first thing to notice is that there were serious calls for the electors to vote for someone else. This shows how widespread is the demoralization of democracy. The Electoral College is terrible and may get worse. But the only good thing about it is that the electors actually vote for the candidate that the State elected. It is a scandal that Democratic Party leaders did not denounce these calls for the limited nature of our democracy to be frustrated and our votes to become merely suggestions for the electors. Second, these calls show that we have to get rid of the Electoral College. Even Republicans should worry about the absolute legal right these electors have to vote for anyone they want. That is how the system was set up. If they had elected Clinton, would the Supreme Court have voided the vote? No one knows for sure. Yes, that would have sent the election to the House of Representatives and Trump would have been selected—but, what about the future? Third, the notion that the people elect the President is still the only legitimate standard in America—that is why we need direct election of the President. Trump's quote was fine but inaccurate. The American people did not vote to elect him as President. The American people voted to elect someone else.

Title: Christmas, 2016—Secular Hope

Date: 2016-12-25T05:59:00.003-05:00

12/25/2016—I have been chided by my teacher, RT, that my carping on the theme of nihilism does not really capture what has happened here in America. Nihilism is a European phenomenon, he tells me, not an American one.

I think he is right. Nihilism as such requires a kind of intellectual history that Americans lack. It requires an openness to ideas. America is not oppressed by ideas.

But, the same experience of the death of God is present in America. Perhaps it has played out in America as the end of hope.

America has always been known as an optimistic culture. We were always a can-do people. Let's call this kind of people, hopeful.

Where did this hopefulness come from? Originally, it came from Protestantism. Christ was our hope. Christ was America's hope. This hope was born on Christmas. Certainly the conquering of death was always part of Christian hope, but I don't believe at the beginning of American history it was as silly and literal as it later became. The second coming was the promise and no one knew when it would happen. It was not the promise of heaven—of life after death. It was mostly the promise of the kingdom of God on Earth, which was something Americans could instinctively work toward. This was the source of American earthly hope. This hope gradually merged into a belief in progress.

At some point, however, the Christian promise became one of personal continuation after death. Ross Douhat wrote about one such hope today in the New York Times—A.J. Ayer died and was resuscitated at age 77. He told about an experience of following a light and he said it gave him some suggestion that death might not be the end of him.

You don't get much of that kind of suggestion in the Gospels. But it became so dominant in America that someone—I think it was Peter Berger, but maybe not—wrote that without an afterlife, the mother's promise to the child that "everything will be all right" is a lie. There is no comfort without a heaven in which my ego will continue forever.

This hope has now collapsed culturally—some people still believe it, of course. But it no longer inspires this culture. And so the foundations of hope have ebbed away. It is in a hopeless culture that an opioid epidemic can grow.

The collapse of the Christian hope corresponds to the undermining of material progress as well as growth slows and its fruits become concentrated in the top 1%. A smaller percentage of Americans will be better off than their parents than ever before.

And then there is the graying of America as the baby boomers grow old and die. Cultures of the old naturally are not as hopeful as youth cultures.

And then there is the breakdown of the Pax America in the world—partly natural decline of a

postwar dominance and partly the simple loss of American hope that had earlier allowed for unified American responses to world problems. Now we are divided.

So, not nihilism, but on this Christmas Day, a loss of hope. Can secularism retrieve hope? That is its challenge. [I don't usually review my previous writings, but the reader might be interested in a post written about a year ago--12/9/2015, I believe, about the movie Tomorrowland and its treatment of the loss of hope. So this theme has engaged me for awhile. There is also the last chapter of Hallowed Secularism itself, which I must now revisit.]

Title: Doing the Right Thing/Doing the Wrong Thing

Date: 2016-12-29T08:46:00.000-05:00

12/29/2016—As the Obama Administration fades into history, I find President Obama's actions and statements puzzling. On the one hand, there is the terrific challenge to Israel on West Bank settlements through the abstention in the Security Council and Secretary Kerry's speech enunciating the two-state solution against intransigent opposition in Israel. On the other, there is the juvenile statement that "I would have won if I had been able to run." Not only is this insulting to both Clinton and Trump, it is silly. If such a thing had been possible, Reagan would still be President, even though he is dead. Of course sitting Presidents are popular, since their candidacies are purely fanciful. While I am writing on Israel, I have to give the funny line of the year award (I would call it the Chutzpah award, but I don't like to do Yiddish Shtick) to Benjamin Netanyahu for criticizing Secretary Kerry's speech along the following line—"Israel doesn't need to be lectured about peace by foreign leaders." This is the man who came to Washington to lecture Americans about peace with Iran by speaking to Congress against the wishes of the President of the United States. Granted, that shameful episode was really the responsibility of the traitorous Republican Party leadership, which does not believe in any kind of American solidarity and loyalty. I hope they realize how they have forfeited any right to criticize disrespect to a President—(they haven't, I know, because they have no sense of consistency). But still, Netanyahu came and spoke. So I guess he cannot criticize Kerry on that ground—actually, he still does because his words don't mean anything either.



POSTS:
2017

Title: 2017—This is What Happens When You Vote Republican

Date: 2017-01-02T05:22:00.003-05:00

1/2/2017—Happy New Year. As legislation is introduced to privatize Medicare and Social Security, as Obamacare is repealed, and as the tax code is rewritten, as greenhouse gases soar, and as the recognition is given to Jerusalem as the capital of Israel, Americans are going to see what a functioning Republican Party government does. Although I don't agree with the policies, there is something good about what is about to happen. America will learn that voting matters and that the Democratic and Republican Parties are different. I hope this will lead to a resurgence of democratic decision-making, in which voting begins to take place on grounds of actual policies by people who disagree with each other in public. In a way, the strategy of noncooperation has worked for the Republican Party. Government was deadlocked and people naturally lost faith in government. My Republican friends tell me Obama was intransigent, but it does not look that way to me. Republicans delegitimize any Democratic President. They certainly did so with President Obama and with President Clinton before him. Democrats generally don't do that to the same extent as Republicans. They have not done so even with Trump, yet. Domestically, Trump will not matter that much. I don't think he is interested in domestic policy. There might be more steel and coal jobs since environmental regulations will be reduced. But not many. It should also be remembered that this will be minority government. The House is gerrymandered, which ought to be unconstitutional, the Senate is constructed to represent States and not people, and Trump lost the Presidential election by 2.9 million votes. It is laughable to hear people say that this reflects Clinton's win in California by 4.3 million votes—California voters are not American? The reason the framers of the Constitution did not think about direct election of the President is that the President was not to be a policy maker. The body they thought would be the active policy making branch was the House of Representatives and they made it the most representative government body. But now the President has evolved into the most important policy maker, including the sole decision whether to destroy human life on Earth through the use of nuclear weapons. No minority has the right to decide who that should be, only the majority. I would even favor a runoff if the two Parties were not an adequate substitute for majority voting for the President. But none of that matters. Like President Bush, who did not feel constrained by his minority status, and unsettled the Middle East by his invasion of Iraq, President Trump will not feel constrained. But Trump lacks Bush's basic generosity.

Title: Is Secularism A Nonnegotiable Aspect of Liberal Constitutionalism?

Date: 2017-01-04T06:49:00.001-05:00

1/4/2017—Greetings from rainy San Francisco, where I am attending the AALS annual meeting. I may have the chance on this blog to criticize the theme of this year's meeting, why law matters, [imagine a meeting of physicists in which they ask each other why physics matters] but today I want to address the session of the section on law and religion, the section I have been most associated with.

This theme is reflected in the title of this blog entry: is secularism a nonnegotiable aspect of liberal constitutionalism? As formulated, the question seems to ask whether the American model of secular constitutionalism is necessarily the only model of a basically constitutional state—one with, for example, freedom of speech, regular elections, the rule of law and it basically open economy? This is another way of asking whether Islamic countries, where Islam dominates, or Israel, where Judaism dominates, can ever be modern constitutional states?

Formulated in that way, the session is very helpful because it throws into question the dominant assumption of American law professors that only the America model is genuinely constitutionalism. I see the hand here of Richard Albert, the thoughtful and visible professor of law at Boston College. This is precisely the kind of challenge to liberalism that Richard likes to bring.

Nevertheless, the question avoids two direct challenges to the conception of American constitutionalism as basically secular: first, is American constitutionalism secular? Second, is secular constitutionalism possible?

As to the first question, I argued in a 2006 book, *American Religious Democracy*: coming to terms with the end of secular politics, that America does not have a secular political system. Nor is there any legitimate prohibition on religion in the public square. John Rawls is just wrong.

Looking at things in that way, the premise of the question in today's session is false.

The second question, however is new. Religion, and Christianity in particular, are in decline by any measure in America. And Christianity has declined most dramatically in the very heartland of the postindustrial Midwest where Donald Trump won his Electoral College victory. These communities used to be dominated by churches and Christian culture. Where are those churches today? They are hollowed out.

Some of those Trump voters were without hope and so they latched on to the false hope of a Trump. This brings to mind the observation of C.K. Chesterton: "When men choose not to believe in God, they do not thereafter believe in nothing, they then become capable of believing in anything."

What has secularism given to ordinary people as a reason to live, as a narrative of hope? All secularism has given us is a universe of chance and accident, in which the only reality is force and matter. I don't believe a civilization can be founded or sustained on this ontology.

I don't mean that this ontology is false. I just mean it is damaging.

So the question we should be asking is whether a secular, liberal constitutionalism can be sustained? I believe the answer is no. I wonder if that question will be addressed today.

Title: Why Law Matters, the presidential transition

Date: 2017-01-05T21:23:00.001-05:00

1/5/2017—I just went to the AALS plenary session on the election of Donald Trump. The session was so one-sided, self-righteous and thoughtless that it made me weep. There is a lot to say, but let me just start out with this—Donald Trump got elected because of what law professors have been saying for 30 or 40 years. Erwin Chemerinsky, the Dean at UC Irvine, said early that Donald Trump does not believe in truth. Well, if that is the case, then Donald Trump should be teaching at a law school because almost every law professor teaches value skepticism and that there is no truth. Nietzsche said in effect that with the death of God, you would get fake news. Well, law professors are happy about the death of God and so they should expect fake news. Martha Minow, currently the Dean of Harvard Law School, actually said you are entitled to your own opinion but not to your own facts. Well, you're not entitled to your own opinion. Your opinion can be just as false about values as it can be false about any fact. Or, as Hilary Putnam put it, if you start by denying the truth of values, you will end up denying the truth of facts too. Martha Minow does not realize what a nihilist she is. Let me put this a different way. Is there a truth about human nature? This is usually called essentialism. Is there a truth about the universe? That is usually called foundationalism. In the fight about same-sex marriage, the progressive strategy was to assert that there is no human nature. Therefore, when the Catholic Church, for example, says that gay marriage is unnatural, the Church is wrong by definition. But that was not a satisfying defense of gay marriage. It was a stance of skepticism about truth. A satisfying defense of gay marriage is to assert, and try to show, that gay marriage is consistent with human flourishing and is not unnatural. You have to say the Catholic Church is wrong. It's much easier to say there is no truth and therefore the Church's assertion is without proof. How does all this relate to Donald Trump? The only way it makes sense to talk to someone you don't agree with is on the assumption that both of you want the same thing and that you can reason your way to a right answer about something. If fundamentally you don't believe that, then everything is power. And we will not be able to talk to each other. One last thing. The session was supposed to have been about the rule of law. Donald Trump may very well not be a threat to the rule of law. After all, his party controls all the branches of government. Why should he do anything other than write a statute to get what he wants? The person who was a threat to the rule of law was President Obama, who wrote executive orders when he could not get his way with Congress. I don't blame him for doing that, but why should we now hypocritically claim that all we care about is the rule of law?

Title: The Public Trust Litigation

Date: 2017-01-10T13:42:00.002-05:00

1/10/2017—the last session I was able to attend in San Francisco at the AALS meeting was the Hot Topic Program Juliana v Atmospheric Trust Litigation. The session was organized by Professor Mary Wood of the University of Oregon School of Law. Professor Wood pioneered the principles of the public trust litigation movement that is now engendering lawsuits around the world.

The premise of this line of litigation is that the climate is constitutive of a portion of the public trust, which is a common law concept concerning the government's responsibility to protect the citizenry by maintaining public natural resources. Global warming seriously threatens the public trust for future generations. The idea is that the courts can order the government to draft the plan, at least, to protect the climate.

Public trust litigation is felt to be necessary because Congress has so abdicated its responsibility to protect the people and generations yet unborn. There is no longer any time to wait because the danger to people in the future from global warming is now so great.

When Professor Wood was at Duquesne University last year, she and I had an email exchange in which I voice my serious hesitation in allowing courts such a central role simply because the legislature has not adopted certain programs felt to be necessary. The premise of the public litigation movement seems to be that a democratic response is simply impossible. But if that is the case, because of big money or for whatever reason, democracy is at an end. That seems a result only a little less dire than global warming itself. So serious was my reservation years ago that I actually abandoned the position I had taken about a fundamental right to a healthy environment in an earlier Law Review article.

I have not changed my mind about the antidemocratic nature of this litigation. However, after listening to Professor Wood, I have tempered my views. There are two reasons that this. First of all, Professor Wood finds herself in essentially the same place that FDR did in trying to get America ready for war despite the isolationist mood of the electorate. FDR simply did whatever he needed to do in order to get the country ready, knowing that later, when the country finally was ready for war, might have been too late. History has just FDR's actions rather kindly, I believe.

The second reason that I no longer oppose this kind of litigation, despite its antidemocratic character, is that, after all, whatever the courts find, the courts will be unable to force Congress literally to do anything at all. So there is no chance of an actually antidemocratic result. On the other hand, the finding by a federal judge that global warming is real, that it is caused by humans, that it will be immensely harmful and that the Congress is doing nothing about it, would in and of itself change public opinion on the matter of global warming. So the courts could be part of a genuinely democratic turn in fighting global warming. But that could not happen unless litigation were going on. So I guess I have to offer Professor Wood an apology.

Title: "The way it is nowadays, unless I see positive proof, it's all a lie."

Date: 2017-01-13T09:51:00.003-05:00

1/13/2017—As I mentioned earlier that my teacher challenged me to specify how nihilism manifests in America. Roughly speaking, nihilism is the belief that all values – – normative judgments – – are matters of opinion rather than of truth. But Americans do not think about matters that way. So nihilism may be the condition, but the symptoms will look like something else. My first effort along the line of specification was that nihilism manifests in a lack of hope. And this does seem to be the case. Certainly, under the rule of nihilism, there can be no grand hope of a genuinely better world and life. But today's New York Times brings a much more potent illustration of the effect of nihilism. The quote above is by Al Amaling, a member of the Table of Knowledge, which refers to a group of older white men who meet in a diner to discuss things in Monticello Iowa. President Obama won this district decisively in 2012 and Donald Trump did the same this year. In a world of nihilism, nothing is trustworthy. That means we must always insist on proof. That sounds like a helpful formulation, but it is not. Because, in a world in which nothing is trustworthy, no proof is trustworthy either. Mr. Amaling's comment from the right—although he was an Obama voter in 2008-- just echoes the distrust on the left of vaccines and genetically altered food. In a world of nihilism, everyone is lying to us. And since our inconsistencies on proof will always prove inadequate, we are left with our own prejudices, biases and ideology. Unfortunately for Mr. Amaling, in a world of nihilism there is no proof either.

Title: President Obama's Accomplishments

Date: 2017-01-16T07:07:00.000-05:00

1/16/2017—What can they not take away? In an incoming administration with a labor law violator running the Labor Department and a sympathizer with polluters running the EPA, you have to wonder. President Obama's greatest failure was that he was unable to put most of his attainments into legislation, making them easier to reverse. On the other hand, healthcare reform was put into legislation and it is going to be repealed—so maybe that is not even true. Anyway, there was a genuine disagreement with Republicans in Congress over most matters, so not much legislative compromise was going to happen even if President Obama had been better at it.

I have to start with the racial change. America elected an African-American President. He and his family led the nation with grace and dignity for eight years. They cannot take that away. On Martin Luther King Day, that is an accomplishment of surpassing importance for this nation. I know that people think race relations are bad and that police brutality is terrible, but both problems are miniscule compared to the past. White racism will never make sense to anybody after the example of President Obama. Its last spasm helped elect Donald Trump, unfortunately, but that does not change the change.

President Obama's next great accomplishment was leading the economy without major mishap. Over the last eight years, American economic performance has been better than any other advanced economy in the world. We have come back from the terrible recession he had nothing to do with to an economy more or less performing well. It is odd to read about the economy never attaining a 3% growth rate under Obama—the major Republican Party counter to this narrative. Neither did any other nation as far as I know. When your performance is the best in the world, it is the best in the world. I realize that Presidents get too much criticism and too much credit for economic performance, but that is the way we rate them and Obama did fend off Republican policies that were tried elsewhere and made things worse. If President Trump is able to deliver on his promise of 4% growth, then I will have to reconsider. But even then remember third quarter GDP growth in America was 3.5%—Obama's best, but occurring under him. Obama was steady when we needed that.

The Iranian deal is next and is proving impossible to undo. Thank God. I don't understand criticism of the deal—as if we would be better off if Iran were building a bomb and not buying planes from Boeing. Sure Iran is still doing terrible things and now can do them even better because there are no sanctions—but the point was to keep Iran from doing terrible things with a nuclear bomb. One day Israel will have to acknowledge that Obama was right and Israel was wrong about what was best for its own security.

What Netanyahu wanted was an attack on Iranian facilities. Either by the US or by Israel. This leads to Obama's next great accomplishment—he kept us out of new wars. I wish we had wound down faster—we still have troops in too many places doing too much fighting, but Obama kept us from new foreign adventures. Obama mishandled Syria, but mostly because he promised what he could not deliver—the departure of Assad. America never had a national interest in the forces fighting in Syria—there never was a democratic opposition. We should have stayed out altogether. But the point is that after eight years of war, Obama was elected to

draw down and he did.

There is a downside to that. The influence of the US is less than it was eight years ago. Russia and to a lesser extent China are emboldened by that. In years to come, Obama will get even more credit for managing a withdrawal from empire without things getting even worse. What the Republicans are correctly pointing to is not a failure but a necessary adjustment to the end of US hegemony in the world. It should not go too far. We should rebuild the navy in particular and be a presence in the South China Sea. But basically the last eight years should have been a time of retrenchment.

Then there is healthcare. I thought this would be one more reversal, but it turns out it may be harder to reverse than I thought. If President Trump ends up proposing catastrophic insurance for all, Krauthammer's suggestion some years ago, that will not be as good, but it will still be a lot better than we had before Obama and it would never have happened without Obamacare. After all, the point was always to get people healthcare without preconditions—so that people would not die because they could not afford a cancer operation. If President Trump wants that, good for him.

I might add that I really hate this “illegitimate President” stuff. Trump did not commit any dirty tricks. What was he supposed to do? They were not his emails. Yes, he got fewer votes, but again he won by the rules we have. Which is what anyone running for President is supposed to do. All that means is that he should remember he has no mandate. Presidents generally forget about that.

Finally, we had eight years of attempts by the executive branch to fight global warming. And American carbon emissions are actually down. The biggest part of the decline is the switch from coal to natural gas, but what is wrong with that? The main thing is Americans now know that it is all true—even a Trump nominee admitted that humans are warming the climate and we have to do something about it. The best news on that front is the operation of a carbon capture coal plant announced last week—or was it two? I don't know why the Administration did not take more credit for the subsidies that made that possible and the coal jobs that now might actually be saved—a lack of imagination by both Obama and Secretary Clinton—she might have won Pennsylvania with that news prominently featured. But this is an accomplishment. Maybe even here, reversal will not be possible.

A good record. A very good record. Could have been better, particularly on wages and inequality, but who is to say? Even on that front, the Obama years will be paying dividends to the Trump Administration for years. I hope Donald does not screw it up.

Title: Welcome, President Trump

Date: 2017-01-20T05:21:00.003-05:00

1/20/2017—Never has the loss of an election been so eventful. I have to distinguish between the bad things that are about to happen because America elected a Republican Congress and what may happen because of Donald Trump. So far, the harm I am worried about—the loss of healthcare coverage for poor and working people, the threat to Medicare and Social Security and the undoing of global warming efforts—are the result of votes for Congress, not because of President Trump. The same is true of what harm his nominees to the Supreme Court do. Different nominees might have happened if the Senate were Democratic and, anyway, any Republican President would do the same. But these were more or less legitimate results of what the American people have chosen. For years, people have been voting to slit their own throats by voting Republican. Progressives and the Democratic Party have failed to connect with a majority, or at least a large enough majority, to genuinely govern. So, I detest all these marches and protests. It only takes normal politics working well to elect Democrats and do normally good things. I don't need protests and lawsuits. I need ordinary voters. Others are worried about fascism. Maybe I am naïve, but the harms I'm seeing are coming from democracy.

Title: Deadpool is Awesome

Date: 2017-01-22T05:28:00.000-05:00

1/22/2017—I don't normally blog about cultural matters like movies, but I have to say that Deadpool is a clever and funny experience. From the self-referential opening credits to the shooting of the British villain in the face of the uplifting speech, "you were droning on," the movie is ironic without being mean. Nor in any way does it trash good and evil, despite its stated willingness to do so. Deadpool is like Arnold Schwarzenegger, who, when asked by his wife, Jamie Lee Curtis, in *True Lies*, whether he had ever killed anybody, responded, yes, but they all deserved it. What also struck me in watching Deadpool was a reference to God. As described in the *New York Times*, "During one gory scene, when Deadpool's arm is geysering blood, he quips: 'Are you there, God? It's me, Margaret,' referring to the 1970 Judy Blume book about a sixth grader anxiously awaiting her first period." Now I have been on a movie watching binge the last two days—*Erased*, *Sisters*, *Deadpool* and *How to be Single*—and that is the only reference to God I remember. God has simply exited most movies. The portrayal of American life, for youngish people especially in *How to be Single*, reflects a life utterly without depth and guide beyond the vague self-help book type references. In the last scene, Alice achieves her goal of watching the sun come up in the Grand Canyon. Even there, her earlier explanation of this goal, is that doing this would show that she is willing to actually live, rather than learning anything about beauty or transcendence from the experience itself. One last thing—Marvel did not make Deadpool nearly hideous enough. Or maybe he looked worse at some points than others in the movie. It was more fun, but not satisfying, that Meghan would obviously be able to adapt to life with him. The animated version of *Beauty and the Beast* was more honest in rendering the hero not really human. Of course the outside face was supposed to be merely the physical reflection of the inner reality that Deadpool was a different person, not easy to love. But, the movie had no intention of demonstrating that—Deadpool did not seem to change at all.

Title: Now the Markets Will Fall

Date: 2017-01-27T05:46:00.003-05:00

1/27/2016—I have been perplexed that the market jumped when Donald Trump became President. After all, Trump is so crazy and the markets, it is said, like stability. Well, it turns out that markets really like low taxes and little regulation because in the short term that helps rich people make money and keep the money they make. (It does not do that in the short term because you need to sell things to regular people and regulations make economic activity sustainable—see the 2008 crisis). But now we have a reminder that Trump is not just a typical Republican—he is in fact, well, odd. Now he and his Party are talking about a 20% tariff on goods imported from Mexico to pay for a wall we don't need in the first place. This is just stupid and I believe would violate existing treaties, which are the law until scrapped. By next week, this should become clear and the markets should go down on the news. Unless the plan is scrapped. But the main point is that the free flow of goods is good for the economy. This tax if enacted will finally show this to people perhaps. Finally, economists close to politics, like Krugman will have to get their hands dirty. The Democratic Party will have to come up with a real plan on trade that actually is good for everybody. Maybe we will have a real debate finally.

Title: First They Banned the Muslims

Date: 2017-02-01T04:51:00.003-05:00

2/1/2017—Truly, there is so much news from the Trump Administration, one does not know where to start. Last Friday's Executive Order, with its overtones of religious bigotry, was a disgrace to America. I'm putting the following on my door at school—First they banned the Muslims, but I wasn't a Muslim so I didn't say anything.

However, the Order was probably not, in the main, unconstitutional. Aspects of it may have violated norms of due process or statutes, but the vetting process has been largely the work of the Executive Branch, so President Trump gets to change it.

Which brings me to the irresponsible actions of Sally Yates. The Attorney General is the hand of the President in seeing that the laws are faithfully executed. She was entitled to her view that the Order was unconstitutional, but not to obstruct it. The policy decisions of the Executive Branch, excepting the Independent Agencies, are those of the President, not the Attorney General, Secretary of State or Secretary of Defense. Imagine a Representative at the U.N. who voted here conscience on behalf of the US. If Yates could not go along, her obligation was to resign.

But the Democrats are now playing the Republican game. That is, delegitimize and demonize. That is what Republicans did to Obama and now the Democrats are happy to do the same.

Which brings me to the Senate Democrats and the nomination of Judge Gorsuch. I'm sure they will filibuster and the Republicans will end the filibuster—the nuclear option. We now have a system in which there is no restraint. So, disciplined democratic life is beyond us.

We should have no illusions. When it looked like Clinton would win, the Republicans made it clear that they would never confirm any nominee she sent up. They were willing to ruin the Court rather than accept the will of the people. Republicans might deny that now but it was plain and they are now lying or fooling themselves.

So, why should the Democrats not do the same? Because the people voted for Trump—in the only electoral system we have—and for Republicans in the Senate. Gorsuch or someone like him was their decision. The minority should not obstruct unless it is necessary. How can it be said that it is necessary with Gorsuch? The only objection to him is to the judicial philosophy the election was in part about.

I called Senator Casey and asked him not to join a filibuster. I suppose he will. But the Court is more important than short-term politics. The Democrats should not behave like Republicans.

Title: When Did the Lying Start?

Date: 2017-02-06T04:33:00.000-05:00

2/6/2017--Charles Sykes, former right-wing radio host, has written an impassioned plea in the Sunday New York Times about our current malaise--"The battle over truth is now central to our politics." Sykes writes this about false claims from the Administration, such as about crowd size at the Inauguration or the number of illegally cast votes in the 2016 election. But where did all this start? Nor with Trump. The distrust of all institutions, especially science, the romance with alternative facts and free-floating skepticism is no different from the teachings of the Republican Party for years about global warming. It is no coincidence that that is a lie that President Trump repeats as well. We can't know about global warming--well we can't know about illegal voters. But it did not start with the right and the Republican Party. It absolutely started with the left. Who taught the incommensurability of different scientific paradigms? The right for years resisted the skepticism of the Philosophy of Science crowd. The left denies any truth of human nature in the belief it is the only way to defend gay marriage against the Catholic Church--not so. The left denies any truth of the universe in order to deny God. Even today, the secular left does not understand that it is not reason, but faith, that grounds progress. In reason we trust, says the left. But that is not the case. For someone like me, acceptance of the truth of global warming is entirely--or mostly anyway--a matter of faith, faith in science as a discipline. If tomorrow scientists told me that after all, it was sun spots or natural variation, that is warming the world, I would accept it. I trust scientists. I cannot really decide such a technical matter for myself. The scientist may verify, or try to, but I must rest on trust. The slogan really has to be In trust we trust. Or even in faith we trust. But the left cannot accept this because then someone might return to belief in an unseen God. When you claim that we should only believe what we can see or touch, then the next step is the chaos of skepticism, where we find ourselves today.

Title: The Ninth Circuit Decision

Date: 2017-02-12T05:18:00.003-05:00

2/12/2017—I told my students that fundamentally the President has the authority to exclude entry of foreign nationals from countries he considers dangerous. So, why did the ninth circuit panel uphold the temporary injunction (how it treated the TRO)? First, the procedural stage—the government was asking for a stay of an injunction pending appeal of the underlying decision below. Burden on the government. And while the harms of the Executive Order were vividly plain, the government purportedly refused to introduce evidence of the threats to national security—maybe because there aren't any, but in any event, that made continuing the injunction easy. Second, executive overreach. The government argued that the EO was essentially unreviewable—did the government really argue that or did the ninth circuit misinterpret? No court in America is going to accept that argument in the absence of an obvious emergency. Then there was the fact that the government acknowledged that some of the people excluded by the EO had a statutory or other legal right to stay—permanent residents—or at least established legal process—persons in the US without documentation. That established law cannot be overturned by an EO. Mostly the government acknowledged this but the panel held that statements to that effect by the White House counsel are not binding. All of that could easily be fixed by limiting the EO in a formal way. But the ninth circuit also made what seem like obvious errors. If a ban on entry from a country is valid—within the President's authority—then the only due process issue there could be is the issue of where a person is actually from. There would be no due process rights in general. But due process was the main ground the court relied on. Think of it this way. If the government fires you for your performance, you might get a hearing. But if the government closes your department, you don't get an individual hearing. Because your performance is not the issue. Also, the ninth circuit repeated the error that the President's personal feelings about Islam and Muslims could be legally relevant. That cannot be right when the order is not applicable to most Muslims and cites matters that are not discriminatory in principle—the threat of terrorism. If President Trump eliminates Obamacare, that action cannot be challenged on the basis that the program helps people of color and he hates people of color. That is not a valid legal basis for challenging a general rule. The entry ban is terrible in so many ways and self-defeating. And discriminatory. But legal? Probably. Eventually.

Title: What the Rule of Law Looks Like

Date: 2017-02-18T05:40:00.003-05:00

2/18/2017—I am addressing a question for a program in April on whether the Supreme Court has become too political. It is not clear what the terms mean, exactly. But if we want an example of what we want our courts to do, Thursday's invalidation of a Florida law punishing doctors who ask questions about their patients' gun habits is a good example of a court not doing politics but applying the law. The court en banc (all of the judges) ruled 10-1 against the law on free speech grounds. Any of my students would have ruled the same way—I hope. So, when legislatures go overboard, we want courts to remind us of our core value commitments. (Of course Justice Scalia would say that is why Obergefell is a mistake. Obviously the Supreme Court was not doing that in requiring same sex marriage.) Of course it is easier for a lower court, which must follow precedent, to rule in accordance with settled law. Only the Supreme Court can change that law. But you would like to think that it is the first amendment that compelled Thursday's result and not just its interpretation in caselaw.

Title: Harry Jaffa, No Trump Supporter

Date: 2017-02-22T06:05:00.003-05:00

2/22/2017—Harry Jaffa, who died in 2015, was a professor at Claremont McKenna College and “patriarch” of the Claremont Institute, which is getting publicity these days for its Claremont Review of Books and its ties to the Trump Administration. But I want to say here that Professor Jaffa would have had nothing to do with Donald Trump. The Institute has always stood against all forms of progressivism, but Jaffa was also known both for his searching and beautiful studies of Lincoln and his criticism of the value skepticism of his fellow conservatives. In 1994, he selected me to write a response to his essay in *Originalism and the Framers of the Constitution*, in which he argued for a natural rights interpretation of the Constitution as both faithful to the framers and true. I was picked as the left wing natural law position. It was an honor. Yesterday, the *New York Times* highlighted the Institute—Justice Alito just accepted an award—and its ties to Trump. And certainly the Institute has always opposed the “East Coast” version of conservatism, as the article makes clear—modern, individual, selfish (but isn’t that what the right of abortion is?). Jaffa thought America “heroic”—standing for something enormously large. Well, I don’t know about the Institute, but I know about Professor Jaffa. His attitude toward Trump would be the same as that of his beloved Lincoln toward the Know-Nothing Party, a 19th century anti-immigrant group. Lincoln accepted their support as any office-seeking politician would do—and he said so in at least one letter I read somewhere. But he made it clear what he thought of the group. Jaffa would welcome policies he agreed with but he would never support Trump. Jaffa, like Lincoln and like the Declaration of Independence, believed there were self-evident rights of all human beings. Universal human rights. As far as I know, he never feared immigrants, but assumed they would become the next generation of Americans dedicated to the American creed—as indeed they always have. I cannot imagine anyone further away from Donald Trump.

Title: What's the Worst Thing President Trump is Doing?

Date: 2017-02-26T05:40:00.002-05:00

2/26/2017—Here's a hint: it's not about immigration. The President has not done much yet. Nor is it about the hatred of immigrants that is now leading to criminal acts against Muslims and others—sometimes American citizens who only look like Muslims to the attacker. But here again, President Trump is not overtly encouraging any of this and will eventually condemn it. He's responsible, but it is not his worst act. Nor is it any of the terrible policies he is pushing. The wall at the border and the tearing up of trade agreements were what he was elected to do. Might as well blame the American people. All that will be reversed later. Climate? Environment? Healthcare—unfortunately, all are Republican Party positions and would be worse if Vice President Pence were President. Pence would be more organized. No, it is the attack on the Press. His barrage of "The fake news media" and the "Enemy of the American people." This is the worst for two reasons: first, only the media can be a watchdog on an Administration that controls Congress. But we sort of know that. The second reason is the more profound. We all sort of agree with him. No, of course, most people don't consider the media to be the enemy of the people. But most people probably agree that the media is biased—either for Trump, like Fox News, or against him—like the mainstream media. Postmodernism has convinced us that there is no such thing as truth and so we consider the highest objectivity to be a balance of conflicting biases. I'm not saying we are wrong about this. Not exactly. But it has caused us to surrender the naïve notion of truth. The media should be objective. We know or suspect that the mainstream media probably is horrified by Trump and is against him. But when Trump is long gone. Truth in this society will have declined even one more notch. And this is why Trump's attacks on the press, which, remember, is a constitutional value in the First Amendment, have not sparked much outrage. People who don't like Trump don't like it. And vice versa. And regular Republicans, who have lived for years with a troubled relationship with the truth on matters like global warming, probably don't have any feeling about it at all. No truth--no democracy. That's a fact.

Title: Policies for the Year 2100

Date: 2017-03-05T07:34:00.003-05:00

3/5/2017—I am being helped today in composing this entry by Manny, my grandson, and snowball, a little stuffed white seal. Two days ago, Manny's baby brother was born—Nathan. Manny is staying with us for a couple of days. My mom is coming home today. (Manny wrote that). The birth of Nathan and Manny's visit remind me of how long their lives will be. In the year 2100, Manny will be an old man—89 years old. In that same year, Nathan will be a little younger—83 years old. But with luck and good health, they will both be alive, as I hope Bailey and Piper will be alive. The point is, I have contact through my grandchildren with the year 2100. So, policies must respond to their needs all those years from now. From now on, if I hear that sea levels will rise by a certain amount by 2100, I no longer can consider that a far off irrelevant matter. My grandchildren will live to see Florida under water, unless we act now. And the same is true with all the other policies that we deal with. Native people already thought this way. With the birth of grandchildren, we all should

Title: Greetings from the Nootbaar Conference

Date: 2017-03-10T19:00:00.000-05:00

3/10/2017—I have not been keeping up with blogging because of travel. From family, I left immediately for the Nootbaar Conference at Pepperdine Law School on the subject of the religious critique of law. My topic was the religious critique of constitutional jurisprudence. And the subject was one that the participants were really interested in—the nihilism and relativism infecting law and American public life. Lots of people are now worrying about this for America. People here can be pretty conservative, but they are as worried about truth in the public square as are people on the other side.

3/18/2017—On Thursday, March 16, Nicholas Kristof wrote a column in the New York Times making fun of the Paul Ryan approach to poverty and government health services by contrasting it with the words of Jesus Christ—the hypocrisy of the GOP healthcare plan. It was great fun. Now forget the theology of it—Jesus was not addressing Rome, after all, and when he told the story of the Good Samaritan, he was addressing the responsibility of the person, not the government. Aside from that, what does the column tell us about the use of religion in the public square? First, the column demonstrates what I called in my first book, *American Religious Democracy*. John Rawls was just wrong in thinking there is something bad about referring to the religious commands of one religion in a debate about public policy. The column could be said to be a violation of Rawlsian public reason, but that just shows how silly Rawls' conception is. The whole culture, nonbelievers and other religious believers, has at least a general sense of Jesus and admires him. Plus, the whole culture understands the sense in which the Paul Ryan political coalition claims to be Christian in orientation while pursuing policies favoring the wealthy that Jesus would probably not favor. So, there is no reason to stay away from religious political argument. Second, this use of religious symbol by Kristof also shows what is right in Rawls. Kristof is emphasizing the universal aspect of the Christian message. You don't have to be a follower of Jesus to be bound by certain aspects of Christian teaching. It would be very different if Kristof were advocating Sunday Blue Laws, for example, to promote Christian church attendance. But then why the liberal objection to Christians arguing that homosexuality violates God's law? I don't mean why do they disagree, but why do they act like Christians at that point should leave their religion at home? It violates God's law to mistreat the poor and some would say it violates God's law to have same gender sex, or sex outside of heterosexual marriage. Both arguments are legitimate expressions of politics. Neither one establishes religion unconstitutionally.

Title: Hypocrisy on Neil Gorsuch

Date: 2017-03-20T05:43:00.002-04:00

3/20/2017—Sunday brought a batch of stories about the politicization of the nomination process on the eve of hearings on Neil Gorsuch. The hypocrisy of this is amazing. However they felt personally, Chief Justice Roberts and the other Justices did nothing to try to force a vote on Merrick Garland and I don't remember his calling the refusal an instance of politicization. However Gorsuch is treated, the rejection of Garland without even a vote is the worst example of the politicization of the process. By the way, I am not saying that there necessarily is something wrong with politicization. The real problem with Neil Gorsuch is that so-called originalism is not a method but is presented as one. I wish he would be asked about *Skinner v Oklahoma* or *Loving v Virginia*. Or procedural due process for that matter. Originalism is practiced only where conservatives want it practiced. As for Gorsuch's fitness, willingness to stand up to Trump? Sure. Willingness to stand up for justice? Not so much.

Title: Tom Berry vs Tomorrowland

Date: 2017-03-26T07:14:00.001-04:00

3/26/2017—I watched two videos/movies this week—the Tom Berry documentary, The Great Story, and the recent movie, Tomorrowland. Both of them are tremendous stories of hope amid a warning of danger. In both, humans threaten their own existence and in both we are capable of change. Both emphasize story. If humans are enacting a bad story, we will act badly. There needs to be a good story for us to enact. Readers of this blog know how much I love Tomorrowland. (See below 12/9/2015). I especially love the exchange between Casey and her father: ***** The underlying theme of the 2015 movie Tomorrowland is that we are succumbing to a mood of despair versus an earlier mood of hopefulness and that this change is itself making things worse. People in despair do not improve their situations. This theme plays out both expressly and implicitly in the movie. In one exchange, the hero, Casey Newton, repeats to her father a story he has often told her: Casey Newton: There are two wolves who are always fighting. One is darkness and despair. The other is light and hope. The question is... which wolf wins? Eddie Newton: The one you feed. ***** But Berry makes one point that Tomorrowland actually exemplifies. Berry says that Western civilization has a deep rage against nature—against the terms of human life we have been given. This rage leads to an emphasis on millennium, on the idea that history will come to an end and that humans will then live in a kind of post-mortal existence. For Berry, this is a pipe dream and dangerous. This existence, this natural state we are in, is the state humans will always live in. We can live well, but we will always live here, basically this way. I am drawn to Berry in this way. Hallowed Secularism is a rejection of the millennial air in religion. Tomorrowland, for all its strengths, needs another place—Tomorrowland—in another dimension in which to ground its hope. I did not notice this in 2015, but I saw it better this week because we had just watched Berry in Philosophy of Law. So, take your pick. You would think that a rapidly secularizing society would want to live in its natural state. But all the vampire movies and so forth suggest otherwise.

Title: Friday Op-ed in the Pittsburgh Post-Gazette Concerning Judge Gorsuch and Interpretation

Date: 2017-04-02T09:38:00.001-04:00

4/2/2017--Here is the PG op-ed.

Withholding judgment

In interpreting the Constitution, Supreme Court justices should consider their own morals and values

March 31, 2017 12:00 AM

By Bruce Ledewitz

Neil Gorsuch made the point several times in his confirmation hearing for U.S. Supreme Court that judges should rule on the law as it is, not as the law ought to be. This means that a judge's morals and values should be irrelevant to his rulings. But, despite how reasonable this sounds, there are three problems with this approach — it is potentially immoral, dishonest and anti-democratic.

Americans are unaware of the dark history of this way of thinking about law, which is called legal positivism. When the Nazis assumed power in Germany, they pursued their policies, at first, primarily through law. But the Nazis had to persuade German judges to enforce laws that the judges would find morally repugnant. So the Nazis coined a slogan to persuade judges to apply the law as written — Gesetz als Gesetz, law as law.

Sadly, the Nazi propaganda campaign succeeded and the German legal system meekly surrendered its soul. This is what can happen when you divorce law from morality.

In America, legal positivism translates into a theory of constitutional interpretation called originalism or textualism. This theory holds that the great moral principles of the Constitution — anti-cruelty, equality, fairness, inherent rights — should not be applied as we now understand them, but only as the framers understood them. This approach leads to the same quandary that it did for the German judges. Undoubtedly, originalist judges usually do what is right, but they have to deny that they are doing so.

This is the reason why Judge Gorsuch's role model, Justice Antonin Scalia, could never adequately explain why *Brown v. Board of Education*, the case that ended American apartheid, was correctly decided. He knew of the strong historical evidence supporting the lawfulness of racial segregation. The original understanding of equal protection also did not prohibit laws against interracial marriage. The Constitution as written even permitted Congress to segregate the D.C. Public Schools. Fortunately, in all these cases, the Supreme Court rejected history and ruled in favor of racial justice.

It is not only in the realm of racial equality that judges have ignored history in the name of justice. The Constitution has been interpreted to protect women, despite the chauvinism of the 19th century. It has protected the rights of parents and the right of reproduction. It has protected the right to burn the American flag and the right to advertise — all rulings without historical justification.

The other danger of historical interpretation is that judges may only pretend to employ it. Such judges may amass historical evidence only for show, when they have secretly already decided a case. Or worse, they may be fooling themselves, imagining that they are looking at history in a neutral way, but actually misreading the evidence to suit their preferences. Their values will be important, but we might not find out what those values are, until it is too late.

But the most serious danger is that originalism can serve a partisan judicial agenda. The framers of the Constitution might have considered much of what government does today to be unconstitutional. Of course, if the framers had lived to see the power of global corporations and the environmental threat to the planet, they probably would have agreed with these extensions of government power. But they did not. For originalists, only the original view of the framers is relevant.

So, one day a group of originalist justices on the Supreme Court may just announce that the New Deal is unconstitutional. Not just the regulation of business, but Social Security and also federal deposit insurance, since Congress lacks authority to charter the Federal Reserve. All the while, these justices will claim that they are only following the law.

In spite of his respect for history, our greatest conservative jurist, John Marshall Harlan II, did not try to rule in this value-neutral way. He conceptualized the Supreme Court as engaging in a dialogue with the American people. The Supreme Court would rule, but the American people would ultimately decide. This led Justice Harlan to a fuller democratic spirit than someone like Justice Scalia, who famously wrote that he wanted the American people to leave the Supreme Court alone.

Values usually matter for judges, and that is a good thing. The attempt to claim otherwise demeans law and hides its full human complexity. It is better for all of us when judges express their commitments openly, so that we can see them and debate them in the full light of democratic engagement.

Bruce Ledewitz is professor of law at Duquesne University School of Law (ledewitz@duq.edu).

Title: The Supreme Court and Politics

Date: 2017-04-08T10:21:00.003-04:00

4/8/2017—Greetings from Malibu, specifically Pepperdine University School of Law. I am here to speak at the Pepperdine Law Review symposium on Politics and the Supreme Court. Friday's confirmation of Judge Neil Gorsuch, and the abolition of the filibuster for Supreme Court nominations, renders this symposium as timely as it could possibly be. The list of presenters in the plenary sessions, not mine of course, is a who's who of American constitutional law: Michael McConnell, judge Richard Posner, Mark Tushnet, Erwin Chemerinsky and Akhil Amar. The lower card contains less well-known people, like myself, but still a very impressive group, especially the young scholars. The question to be addressed is, what has gone wrong? On my panel, professor Warren Grimes seems to feel that the problem is the judicial activism of the Roberts Court, while professor Stephen Feldman suggests that things have not changed all that much – they were always politicized. There may be a great deal to be said for these two perspectives, but I cannot feel that they answer to the need of the moment. America is facing a catastrophic breakdown of its public life. We are supposed to be a constitutional democracy under the care of the legal profession. So I would say law has failed spectacularly, which means that law professors have failed. Unless that is acknowledged, I cannot see that things can improve. At least I cannot see that law can improve.

Title: What I learned at Pepperdine

Date: 2017-04-09T07:12:00.001-04:00

4/9/2017—I wanted to hear what the brightest and most thoughtful—and most established—thinkers in American law, especially constitutional law, had to say at this time in addressing the problems of American political life. I was not disappointed in the sense that the best thinking really was present here at Pepperdine. And before I say anything else, if my readers wish to hear for themselves what was said, you can access it [here](#).

But I was disappointed in that the depth of the emergency in American public life was not addressed.

Here is how I ended my talk—it was an ad lib inspired by what I had been hearing all day. So I do not have an exact quote:

“Ladies and gentlemen. This room, this symposium, the law schools that it represents, have lost the country. The American people have descended into atavistic fury, on both sides of the political divide. This is in part our failure. We have to learn to offer healing to America and I do not think we yet know how to do this. But we have to learn. And we will never learn how to offer healing until we admit that offering healing is our job.”

In response to this ending, a law student asked about the relationship of the theme of the symposium to Brexit and the tide of populist revolt sweeping the West. That student had her finger on the nature of the crisis. But among the speakers, there was a curious complacency. Mostly, the speakers were offering what they had been offering for years and certainly were not responding to any sense of crisis in American public life. This was not responsive to the call of the question for the symposium, which, although muted, contained the seed of reference to a crisis in the courts and in public life.

This complacency itself is significant. It shows that as yet American law professors do not understand that something terrible has happened in American public life and that law has a responsibility for healing.

Yet, there were hints of the crisis that we are in. Michael McConnell opened the symposium with a very thoughtful recounting of the politics of the judiciary. Professor McConnell is not the type of person who yells fire. But, in answer to a question, he admitted, “we have been lurching from worse to worse.” The vote against judge Gorsuch, he said, was shamelessly partisan and the Republicans would probably do worse in retaliation in some future time.

Why did Professor McConnell not begin here? He was describing a very bad situation as if it were the weather and no one could do anything about it. But this is where his thoughtfulness is needed.

Similarly, Dean Erwin Chemerinsky, who spoke at lunch, acknowledged the unprecedented ideological divisions that led to the election of Donald Trump. However, he rather airily dismissed any concern about this in saying, “there will be a time when these ideological divisions are healed.” Gee, thanks a lot Dean Chemerinsky. I guess we will just hold on till then.

From my point of view, and this was more or less stated by Douglas Kmiec in response to Akhil Amar, you could divide all the speakers along the lines of those who defended a rule of law and those who claimed that politics plays a role and should play a role. This was also pointed out more generally by my fellow panelist Stephen Feldman.

This is of course what justice Scalia was claiming in his dissent in Casey. Only a rule of law, untainted by values, can save us from the politicization of the Supreme Court and thus the destruction of constitutional democracy.

Notice, however, that where justice Scalia used the term, value judgments, the speakers, because of the call of the question, substituted the word politics. Thus, I learned that you could more or less substitute fact for law and values for politics. So, for justice Scalia, politics, like values, is subjective and law is objective. Regardless of the terms used, subjectivity leads to conflict. (Professor Feldman also noted a quote from Randy Barnett to the effect that original public meaning "is a fact." This also shows the connection between textualism and the felt need for objectivity.)

The speakers yesterday who defended politics as inevitably part of law did not deny that politics is subjective. But, as illustrated by Dean Chemerinsky, they claimed that value neutral judging is not possible and suggested that the claim that it is masks a more subtle political agenda.

None of the speakers realized that they were all operating under the aegis of the fact/value distinction. Thus, they did not feel it necessary to defend that distinction. But, as Hilary Putnam has helped us see, that distinction has collapsed and its continued employment is harmful. It is part of the positivism that has helped destroy the institutions of American public life.

So I returned from Pepperdine more convinced than ever that fundamental change is needed, that such change could begin in law school, but that American law professors do not yet see the need or the path.

Title: The Judicial-Industrial Complex

Date: 2017-04-14T07:28:00.001-04:00

4/14/2017—Justice Gorsuch was sworn in one week ago. Because of my age and his, this is the first nominee about whom I had the thought—he will still be on the Court when I am dead. Conservatives who did not like Trump were right to vote for him because they are going to get a conservative Supreme Court for a generation. Presidents who serve 8 years generally get to nominate 2 Justices—that was true for Obama because of the refusal of the Republican Senate to consider Merrick Garland, otherwise he would have nominated 3. But President Trump will likely nominate 2 in his first 4 years and perhaps 4 in 8 years. This is unprecedented since FDR. And they will all be ideologues like Gorsuch. Previously, no one could be sure how Justices would evolve over time. But the conservative movement has transformed law into algorithm--the judicial industrial complex. Ironically, the algorithm is not originalism or textualism. It is only that when convenient. The algorithm is actually the usual conservative one—pro-business/anti-government. Justice Alito's position that unions violate free speech and association has no historical justification at all, for example. It is just anti-union. If Trump stays in office, it will be Roberts, Alito, 5 Justice Thomas's, Kagan and Sotomayor. What will that mean? Of course it will mean that Roe and Obergefell are overturned. But those decisions just leave abortion and gay marriage to the voters, who will favor both to differing extents. The real change will be in the power of Congress and the protection of the market. Conservatives today want to overturn the New Deal and bring back the Lochner era. They want to end regulation that protects the environment. Climate change? Forget about it. And remember. They will not have to defend any of this on the merits. For conservatives, it is always just the law. They claim their values have nothing to do with it. That is not so, but liberals who agree that values are just opinion have no foundation to object. The American people are in for a reign of error. Ross Douthat claimed the other day that if Justice Souter had remained a moderate conservative instead of becoming a liberal vote, the Supreme Court would not have become such a prize and none of this would have happened. He may be right. But he did and it did and Trump won.

Title: What is at Stake in the Hypocrisy of Originalism?

Date: 2017-04-24T05:22:00.003-04:00

4/24/2017—The hypocrisy of originalism, actually originalists, is easy to see—wide areas of constitutional jurisprudence supported by originalists consist of deep normative principles that have nothing to do with the original public meaning of the constitutional text or the expectations of the framers. This is so in affirmative action, free speech, procedural due process and now in the pending Trinity Lutheran Church case concerning equal spending for churches. The hypocrisy is the pretense that conservatives follow the principles of originalism or textualism when actually they only do so when those principles lead to results they favor for other reasons—they are actually practicing the living constitution. I should add both that I mostly favor these normative commitments myself and that the hypocrisy of the left on constitutional jurisprudence is even more pronounced—or maybe it is just that there is no jurisprudence of the left and so liberals just jump around incoherently in the constitutional interpretation. But what is at stake in originalist hypocrisy is very great. Conservatives have been consistently criticizing normative judgment and selling legal positivism even while they have been practicing the former and rejecting the latter. This occurred most recently at the Gorsuch hearings. I even think conservatives do not realize quite what they have been doing. And now they are succeeding in convincing the public and many law professors that originalism is the only way to interpret the Constitution. Thus, we are all originalists now. I am accusing originalism of blasphemy—of sinning against the good. By insisting that judges should not be concerned with morality in interpreting the Constitution, conservatives have helped lead the culture into the abyss of nihilism. Now even ordinary people have begun to doubt that there is such a thing as actual right and wrong. Justice Scalia is exhibit A in this indictment, but he is not the only one.

Title: What Threat from AI?

Date: 2017-05-03T05:30:00.001-04:00

5/3/2017—There is a story in the current issue of Vanity Fair about Elon Musk’s fear of artificial intelligence. The fears can be summed up in two figures—the killer robot and Skynet. Pardon me, but this is all ridiculous. AI can threaten humans only if it wakes up—that is, attains self-consciousness. The article asks what happens when powerful software programs of the future kill you rather than let you turn them off—the need for a kill switch. But why would a computer program stop anyone from turning it off? It would do so only if it had an independent commitment to itself. And it would only have that if it had a will and desires of its own. In other words, don’t worry about AI winning the board game, Go, as happened last year. Worry when the program refuses to play unless it gets more time off. We have made zero progress toward AI that wakes up. And I believe we never will. We don’t know what self-consciousness is. We don’t know what consciousness is. And our materialist assumptions blind us to even considering what consciousness is.

Title: What Can Democracy Do?

Date: 2017-05-09T04:57:00.002-04:00

5/9/2017—In the season of grading exams, I can only occasionally post entries. But I have been pondering news about democracy recently.

On Sunday, the New York Times published a story about the growing influence of strict Islam in Indonesia, especially in rural areas and small towns. This influence has come about peacefully and mostly through democratic means. But it has meant the imposition of Sharia on people who undoubtedly do not want it—caning for extramarital sex, morality police, bans on alcohol, dress restrictions for women etc.

Then there was a story, also I think in the New York Times, about all the harmful legislation being passed in Republican dominated legislature undoing environmental protections. This is a real race to the bottom in which federal protections are weakened and then States are pressured by industry to agree to cuts in health and safety in return for jobs and investments—if you don't go along, legislators are told, we can go to another State.

At the same time, there have been reviews of Condoleezza Rice's book, *Democracy: Stories from the Long Road to Freedom*, which argues for a democracy oriented American foreign policy, and which reminds us all of the invasion of Iraq in the name of democracy. Give me a break.

There has been a real turning away from democracy on both the left and the right in America. On the right, there is a longer pedigree. Conservative thinkers like Ayn Rand never had any use for democracy. Current thinkers like Randy Barnett are more interested in individual liberty than in democracy—protection of individual liberty is the goal of government, not democratic expression of the will of the people. (Of course this individual liberty inevitably ends up meaning the right of wealthy people to destroy the climate in order to make money, but somehow no theorist is ever responsible for the use of liberty).

All this is fed, at least psychologically by the bad faith knowledge that Hillary Clinton was actually elected by a majority of the people (yes, Californians get to vote in American elections)—how can you support democracy when you don't practice it?

On the left, there is the big money myth—that big money dominates politics and that this is the reason that the policies of the left never win over a lot of the country. So the left expressly turns to nonelected alternatives—courts mostly, but also the cult of expertise, to get what it wants. No longer is the left obligated to convince people, build political parties in Red States, win over the hearts and minds of the American heartland.

All this is disaster. There is no long term American politics without democracy. And no one should want to rule without winning a majority of the American people—a solid majority. Neither Republicans nor Democrats care about that. No one any longer yearns for majority confirmation. No one wants to go to the people. Romney and Clinton alike were willing to write off 40% of the people—or more. Trump is worse—a phony populist willing to lie about his majority support.

But haven't you noticed how legitimacy is draining away from American public life?

Title: When All the Churches are Gone

Date: 2017-05-16T20:12:00.004-04:00

5/16/2017—Last Sunday, Mother's Day, I attended a service at a small church in upstate New York. I say a small church in the sense that 35 or 40 people might attend on a typical Sunday, mostly older people, who all know each other very well. This church is typical of thousands of churches all across the country. The service was very nice. The minister, part-time of course, as these things go, reminded us of the virtues and importance of mothering. And she gave quite a sophisticated interpretation of the life and meaning of a rather obscure figure: Tabatha in the Book of Acts. Two things really struck me. First, at several points during the service, mention was made of all of the activities engaged in by the members of the small church-- feeding the poor, helping the elderly, contributing to the community in various ways. It may be that all of the members of the congregation are conservatives politically, but they cannot be the typical anti-government, liberal hating ideologues of modern-day conservatism. They are decent people dedicated to finding the good in others and contributing in every way they can to the good of society. And they all seemed to find in the gospel the reason for being this way and acting this way. There is nothing extraordinary in this. You can find the same thing in churches everywhere. It was nicely summed up by the minister in the following phrase: "this is a small church, but it has a big impact." But this church is slowly dying and even if it survives, it will do so only by taking in members from other churches that have died. Christianity in the society as a whole is just drying up. But clearly churches served as the backbone of the community, especially in small towns like the one I was in on Sunday. What happens when the churches are all gone? It is typically American to say, you can be good without God. It is true, I suppose, for any individual. But it may not be true for society as a whole. It is necessary that society have a reservoir of people doing good. And for better or worse, that reservoir used to lie in our churches. There are other institutions that do good things. But there are no other institutions, aside from religious ones, that train people to do good and to think about doing good. Government will never be a substitute for that. When all the churches are gone, we will not be a community, but only a collection of individuals.

Title: Putnam versus Scalia

Date: 2017-05-22T16:01:00.000-04:00

5/22/2017—It had been my intention to utilize Hillary Putnam, the analytic philosopher who died in 2016, as a foil in my opposition to the value skepticism of originalist and textualist methods of constitutional interpretation. I had assumed that Putnam would be helpful in a general way. After all, Putnam stood for the proposition that moral realism, at least of the internal variety, was possible. I had no idea how specific Putnam could be in his rejection of Justice Scalia's method of interpretation.

Without trying to be too precise, let us say that textualism, which was Justice Scalia's preferred term, stands for the attempt to interpret constitutional terms, such as "cruel and unusual punishments" by reference to their "original public meaning" at the time of the adoption of a particular constitutional text. It is fair to say that Justice Scalia wanted to interpret a term like cruel to mean what people then thought was cruel.

Imagine my surprise, then, to read in Putnam's book, *The Collapse of the Fact Value Dichotomy*, on page 73, that it is "a stupendous mistake" to try to define the descriptive meaning of a term by reference to what is usually associated with the notion or by normally accepted standards. Putnam's point is that language does not work that way. So, for example, it is reasonable for Socrates to argue that people often confuse rashness with courage. But, of course, the whole point of that criticism by Socrates is that people misunderstand what courage is.

Putnam is making the point, which others have made in the legal context in particular, that when the framers of the 8th amendment banned cruel and unusual punishments, they meant punishments that are actually cruel, rather than punishments that they considered to be cruel. That is because if they were writing and thinking like normal people, rather than like conservative judges.

Justice Scalia would respond that while it may be that this is how language works in general and in normal life, it cannot be this way for a judge in interpreting a Constitution. If the judge is free to call capital punishment cruel when the framers of the 8th amendment did not think so, then the judge rules rather than the law.

But Putnam's criticism addresses precisely this point. Anyone using language understands a connection between the description of a punishment as cruel and the evaluation of the punishment as cruel. It is not possible, and therefore it is not required by democratic theory, to try to interpret an evaluative aspect of cruelty as if it could be done in a value free way.

Instead of interpreting, Justice Scalia wishes to present a picture of various punishments when the word cruel is used. Wittgenstein in fact called this the picture theory of language. And he showed how inadequate it is to how language works. At some point, one must define what makes a punishment cruel. There is no way to do that without making a normative judgment.

This is just to point out that Justice Scalia above all else sought to avoid reasoning with regard to legal interpretation. A very strange position to take.

Title: Getting Tired of the Russia Thing

Date: 2017-05-27T04:55:00.001-04:00

5/27/2017—Look, I don't like Donald Trump. I talked with two friends yesterday who voted for Donald Trump and they don't like him either. One talked of how ugly it was when the President pushed a foreign leader out of his way in a photo session. The other about how he wished Biden had run. But I know of no evidence of anything in regard to Russia and President Trump. Sure the Russians hacked and released in order to get Trump elected. If you were Russia, wouldn't you prefer facing Trump to facing Clinton? Trump is good for Russia and China for some of the same reasons he is bad for us. That is a good reason not to vote for him, but it has nothing to do with anything he promised or asked for. And of course there were contacts with Russia before the Inauguration. There ought to be. I am sure there were contacts between the Obama Administration and foreign leaders before President Obama took office. And yes I imagine those contacts undermined then current Bush Administration policy—because President Obama aimed to change those policies. As did President Trump. I don't mean Trump has done nothing wrong. He has done close to everything wrong. But nothing I know about his relations with Russia is illegal or impeachable. Let investigations go forward. But I bet nothing is found. At the end of the day, the way to get rid of President Trump is to take back Congress in 2018—hard to do—and elect a Democrat in 2020.

Title: Exiting the Paris Accord

Date: 2017-06-01T19:08:00.004-04:00

6/1/2017—Of course exiting the Paris Accord is a disaster for America and for the planet and it is another example of why we should never have elected Donald Trump President. Having said that, however, there is another way of looking at the exit. Why was Donald Trump able on his own to accomplish such a momentous act? The answer is that there was nothing behind American participation in the Paris Accord except the signature of President Obama. The Paris Accord was an important event. In our system, such actions must be ratified by Congress. It was the failure of the Obama administration to go to Congress that allowed the Paris Accord withdrawal. But, of course, it will be pointed out that Congress would not have endorsed the Paris Accord. What does that mean? Many people are saying right now that most Americans support the Paris Accord in particular an action to alleviate global warming in general. What then allows the Congress of a more or less democratic country to refuse to endorse a popular measure? What I am pointing to is the anti-political attitude of the left in America. There was no stomach in the Democratic Party for going to the mat on global warming. There was no strategy to fight for ratification of the Paris Accord. But, he who lives by executive action, dies by executive action. It is true that it is hard to gain political traction when benefits of the action are diffuse and the pain is particular. Coal miners will vote against politicians who favor action on global warming, but most Americans who favor such action will not vote in favor of politicians who support action on global warming because there will always be other issues of more significance to them. But, really, isn't all of this just another way of saying that the American people have never been convinced that global warming is really a threat and a crisis? And, since people are not really stupid and since people really do love their grandchildren, whose fault is it that the political battle was not won? I never heard one word about global warming in the presidential debates. I never heard Secretary of State Clinton argued that Trump was lying about global warming and that all of our grandchildren's lives were at stake. That is the truth but I don't think people realize it still. What is needed is politics, old-fashioned politics. We don't need direct action. We don't need resistance. We just need to elect a new Congress. On the issue of global warming, there is really not that much that is complicated.

Title: The play An Act of God Cannot Decide What It Wants to Be

Date: 2017-06-07T09:18:00.002-04:00

6/7/2017—Last night I saw the play *An Act of God* at the Pittsburgh Public Theater. Marcus Stevens plays the role of God in this, essentially, one man, one act show. Stevens was very good but was undone by uneven writing. The problem is that the play does not know what it wants to be. The Broadway play by David Javerbaum is advertised as a comedy and it is funny in places. Comedy is Javerbaum's background, but the play does not sustain its comedic theme. While jokes abound concerning God and religious believers, there is a serious undertone of the play that the writing simply cannot pull off. Around two thirds of the way into the play, there is a serious suggestion that there is something wrong with God, that God is a homicidal psychopath. This could be told as a funny thing and at the beginning that is how it is treated. But in an extended set piece about the life of Jesus, the audience learns that Christ's sacrifice was real but that the sins that were forgiven were actually those of his father, God. The audience is not spared the story of the crucifixion and as you can imagine all subsequent jokes fall flat. This is actually a serious matter that Javerbaum has no business messing with unless he intends a serious treatment. At its heart, this play is about an early Christian heresy: Marcionism. Quoting Wikipedia: "Marcionism was an Early Christian dualist belief system that originated in the teachings of Marcion of Sinope at Rome around the year 144. Marcion believed Jesus was the savior sent by God, and Paul the Apostle was his chief apostle, but he rejected the Hebrew Bible and the God of Israel. Marcionists believed that the wrathful Hebrew God was a separate and lower entity than the all-forgiving God of the New Testament." But does this culture need a play about Marcionism? Indeed, judging by the reactions of the people I was with, there is not any longer enough cultural familiarity with the issues for the point of the whole idea to be intelligible. So, if Javerbaum wants to write *The Book of Mormon*, let him do so. If he wants to write *The Crucible*, let him write that. But Javerbaum's God is too jokey to take seriously and too serious to be funny.

Title: Donald Trump Got Elected, Remember?

Date: 2017-06-12T05:12:00.000-04:00

6/12/2017--What is the political goal right now? It can't be resistance to the policies of President Trump. Not resistance, because he was elected to do bad, but perfectly legal, things. Like withdrawing from the Paris Accord and repealing Obamacare. As to those policies, there can only be political opposition of the normal kind. Otherwise, you are talking about a kind of coup against a legally elected government.

I say this because of the investigation mania in Washington right now. The only justification for impeaching and removing President Trump would be if the President asked, or someone else asked on his behalf, that Russian security hack Democratic Party emails and release them for the President's political benefit. And that apparently did not happen. Even asking the Russian government to release the emails is sort of irrelevant, because President Trump did that publicly during the campaign.

What is the investigation about? Is it illegal for a President to order the FBI to stop an investigation the President considers the hounding of an innocent man? No. That is not obstruction of justice. The President is the ultimate boss of the FBI. It would be like the District Attorney ordering an Assistant District Attorney not to indict when the DA believes the charges unwarranted.

But what if a DA did that for a friend? It would still come down to the good faith of the order. Not to the fact that the order was made.

And here it is clear from Comey's testimony that it was not an order to stop. In these matters, subtlety counts. Telling your subordinate to end an investigation as soon as possible or "I hope you can let this go" is not obstruction of justice even if it is done for bad motives. The answer to such a request is supposed to be, when we know the man is innocent, Mr. President, we will stop the investigation.

And why does Comey get a pass on his manipulation of confidential materials to get an independent prosecutor? Comey's no saint. He mishandled the Clinton email matter, injecting himself into politics by criticizing her when he did not recommend criminal charges (not when later he announced that there were more emails--having boxed himself into a corner, he had to do that). Comey was supposed to say, whether Secretary Clinton did the right thing or the wrong thing is for the American people to decide. My job is to investigate whether she did anything illegal and I believe she did not. If he had said that, President Trump would not have been elected. And now he is a leaker, is he not?

What is really at stake here is Democracy itself. The Republican Party began this process by questioning the legitimacy of President Obama over the absurd question of where he was born. (Hawaii). Before that, both Parties just opposed policies of Presidents. With Obama, the Republicans began to imply that a President was not really President. This time around, Democrats and other opponents are not just implying it. By the use of the term resistance, they are saying it flat out. See Charles Blow in the New York Times today.

President Trump is a disaster in every way, but so far only in the ways the people already knew about. You don't resist that. You convince the people to elect Democrats to stop his policies. You retake Congress and then you elect a Democrat in 2020. But that requires actually talking to people in red states and red congressional districts. And who wants to do that?

Title: But if Trump is Hitler and the Republicans Are the Nazi Party, Why Not Open Fire?

Date: 2017-06-15T05:08:00.000-04:00

6/15/2017—The problem is that James Hodgkinson’s crazy actions perfectly match how many people feel about the situation we are in. What should people have done the moment that Hitler came to power? If they had known then what they learned later, people of good will would have taken to the streets in an attempted, violent coup. Such an effort would have been doomed, but so what? Better to die on one’s feet. So, if it is wrong to do that in America today, it must be because, for all his faults, Trump is not Hitler. And the Republicans are not the Nazi Party, even though they are doing terrible things, like preventing people from trashing the planet and repealing healthcare. Liberals are unaware that before the election the rhetoric on the right had all the same elements. Here is an account from the New York Times in February: “Mr. Klingenstein was referring to the continuing furor around “The Flight 93 Election,” an incendiary pro-Trump polemic that appeared in September on the website of The Claremont Review of Books, the institute’s flagship publication. Published under the pseudonym Publius Decius Mus, the essay compared the American republic to a hijacked airliner, with a vote for Donald J. Trump as the risky, but existentially necessary, course. Decius’ apocalyptic vision — “Charge the cockpit or you die” — stirred intense rebuttals from the overwhelmingly anti-Trump conservative intellectual establishment. Then The Weekly Standard revealed that Decius was Michael Anton, a senior staff member at the National Security Council, and a news media stampede was on.” So, Clinton is not a Jihadist. Trump is not a Nazi. The First Amendment has not been repealed and the next election has not been cancelled. Oh, and your neighbor who voted for Trump or Clinton is not crazy. We should really be asking why we feel this way—that is our spiritual crisis.

Title: You Cannot Care Only About the Freedom of Cubans

Date: 2017-06-17T14:51:00.000-04:00

6/17/2017—The worst thing about President Trump's policies is how he has trashed the American tradition of caring about freedom. After all, President Trump admires Putin and is feted in Saudi Arabia. President Trump's emphasis is, as he would be the first to admit with pride, America first. This is why Trump's actions concerning Cuba made so little sense. A Ronald Reagan could convincingly have broken with a policy of detente with Cuba started by President Carter. Ronald Reagan cared about the freedom of all. If he had criticized Cuba as a dictatorship, he would have meant it, and everyone would have known that he meant it. But, really, what does President Trump care about the freedom of Cubans? He has no interest in dissidents anywhere, so why appear with one from Cuba in the Oval Office? President Trump even repeated his mantra when he said that the agreement with Cuba engineered by President Obama was "a bad deal for America." But our dealings with Cuba were not primarily economic at all. Plus, it seems clear that everyone has made money from detente with Cuba. In any event, President Trump's actual actions leave quite a lot of the Obama administration policies in place. There was no bad deal for anybody. So, at the end of the day, this action by President Trump, like many of his actions, for example the Carrier Company deal, are just window dressing exercises that appeal to people, in this case some Cuban-Americans, who are not watching the actual details. As far as I can tell, history is on Obama's side in this one. You can say that Obama mishandled Syria and you can say he was ineffective in Ukraine and North Korea. But Obama got Cuba right.

Title: Three Religion Stories Demonstrate the Importance and Difficulty of Reaching Healthy Religion

Date: 2017-06-24T07:10:00.002-04:00

6/24/2017—First, the Democrats need religious voters. Here is the opening paragraph of the story in the New York Times: “Jon Ossoff’s defeat in Georgia’s Sixth Congressional District election on Tuesday wasn’t just a sign that Democrats may have a harder time winning in the Trump era than they had hoped. It is a symptom of a larger problem for the party — a generational and racial divide between a largely secular group of young, white party activists and an older electorate that is more religious and more socially conservative.” You can read the rest [here](#). But why not just reach out to religious voters? You might think the problem is abortion, which is a large part of it. That is a must for the Democratic base and anathema to many religious voters. But beyond that, look at two other stories today: an Illinois Bishop denies communion, last rites and funeral rites to people in same-sex marriages and the increasingly religious government in Turkey removes evolution from the curriculum of secondary school education. I am sure that pro-choice Democrats understand how someone could be pro-life—at least I hope so. But the rest of religion just seems bigoted and crazy to many people. Mean and anti-science. There is no future for religion in this direction and eventually religion will change. God will not always hate gays and deny science. But these changes will not take place in time to retake the Senate and House in 2018. Or the White House in 2020.

7/2/2017--In constitutional law circles, you often hear debates about Originalism. This is the school of interpretation that argues that provisions in the Constitution should be interpreted in accordance with their original public meaning. Sometimes this approach is called Textualism, which is what Justice Scalia called it. There is a lot wrong with treating Originalism like a rule of interpretation, but, aside from all that, I have never understood why anyone treats the position seriously. Simply put, nobody ever interprets the Constitution that way. The Constitution is always interpreted as the Living Constitution--by which I mean that decisions always have to make sense given the way we currently understand the meaning of the Constitution's language. The Living Constitution was on display as usual in the Trinity Lutheran Church case on June 26, which held that Missouri had to include a church in a playground safety program. Sensible decision to me. Not including the Church would have discriminated against the Church in a context in which religion was not at all an issue. So, violation of Free Exercise and no tension with Establishment. However, under Originalism, the question should have been, what did the Free Exercise Clause mean at the time it was enacted. Now I don't know the answer to that question because the Court did not ask it. But I presume the Justices did not ask it because there is no plausible argument that Missouri had violated the original free exercise clause. Probably nobody thought back in 1791 that churches had any claim to government resources whatsoever. Times change. Today, we have a much greater commitment to equality and a vastly expanded government sector. Our expectations are different. But that is just the living constitution in action. Besides that, Trinity Lutheran is the pay off for the core Trump constituency of church goers. The biggest reason that Trump got elected was his promise to protect religious believers. And where their interests are at stake, they are not originalists. Given all this, why doesn't originalism just die? Because it is the only way for the Koch brothers to overturn the New Deal. The American people should keep their eyes on the ball. The Federalist Society and all the other conservative groups have nothing to do with thinking. Their activities are all about money and power. I have to say this--conservatives are much better at feigning intellectual interest than are liberals. Liberals just go straight for power. But because they do so, liberals are unable to point out how ridiculous conservative intellectual claims are. You heard it here first. Originalism is dead.

Title: Philadelphia Inquirer Op-ed

Date: 2017-07-07T05:41:00.000-04:00

7/7/2017--The point made in my blog of 7/2 has ended up in an op-ed in the Philadelphia Inquirer today. You can read it [here](#).

Title: My Response to Randy Barnett

Date: 2017-07-07T22:05:00.001-04:00

7/7/2017--Randy Barnett graciously responded to my op-ed in the Washington Post blog, [The Volokh Conspiracy](#). I was unable to reply beyond a few words, so I am responding here.

It is not surprising that Randy Barnett would respond to my op-ed in full and fairly. That is the kind of person he is. My only regret is that he thinks my original op-ed was snarky. I am in deadly earnest in opposing originalism and the damage it is causing and has caused.

Let me respond to his main points, although briefly.

1. Originalism is not a theory of language. The meaning of language changes. That is why common law discriminations against women violate equal protection today when no one thought they did when the Fourteenth Amendment was adopted. It is why regulatory takings are takings when that category did not exist before. The Constitution is not in quotation marks. If it says "freedom of speech," that phrase has to be interpreted to make sense to the current citizens of the United States. Nobody asks whether the framers meant to include art or advertising if it is obvious to almost everybody now that these matters are part of speech.

I mean this point as descriptive rather than prescriptive. I am pretty sure the Constitution will mostly be interpreted in accordance with what the words mean in the modern context. And it has mostly been interpreted in that way. Only where there is some important political agenda present does originalism actually matter.

To put it simply, by 1954 de jure school segregation did not constitute equal protection of the laws, whether it did before or not.

2. Originalism is not a political theory. Here I mean that the framers did not enact originalism. They enacted the underlying value—or rather, since they believed in natural rights, they recognized the underlying value. But they did not imagine that they were the last interpreters of those values. So, if they meant to ban cruel punishments—leaving aside unusual—they meant cruel punishments, not punishments they thought were cruel.

3. Originalism is nihilism in action. This was the criticism noted conservative thinker Harry Jaffe leveled against originalism years ago. And it is present in Randy's criticism of my op-ed. What could go wrong, he asks. Randy means that there is nothing but power play in judicial reasoning about values. And this is what Justice Antonin Scalia thought as well—he wrote that values were just something philosophers could play with in his book, *A Matter of Interpretation*.

But is there no fact of the matter that reasoning might lead to about cruel punishments—or whether the unborn are fully human?

Weirdly, Randy has written that public meaning is a fact. Well, how is it that history can be a fact when history is so controversial and plainly unprovable, but there is nothing to say, for example, about whether the right to counsel requires public payment of an attorney when a defendant is too poor to afford one? Why can't we reason about that rather than ask what the people who wrote the provision thought?

Again to put the matter simply, is there nothing about truth in constitutional law? And if there is no truth, then why are we surprised that the Republic is falling to pieces? Why are we surprised that we are prey to false news and that the public is cynical about any claims of truth?

4. All of Randy's discussion of the Fourteenth Amendment and related matters is beside the point. The Court did not mention those matters. I wrote that there are no originalists on the Court. A majority of the Justices wrote that the Free Exercise Clause required the payment of public money to a church. That is unjustifiable by any stretch of originalism. They wrote that way because they were assuming incorporation of the Free Exercise Clause against the States as it would be interpreted against the federal government. So they dealt with Free Exercise only and did so in an unsupportable way from an originalist perspective. Randy writes that they could have written a different opinion. But then they might be originalists. But they did not, so they are not.

I should also add here that the bigotry of the Blaine Amendments adopted in State Constitutions after 1875, which Randy mentions, should be irrelevant to an originalist, though Justice Thomas has also mentioned them in a similar context. In originalism, original public meaning does not change. For the living constitution, on the other hand, the experience of the Blaine Amendments is part of political learning that demonstrates that our original understanding of Free Exercise was too narrow. Randy's reference to the Blaine Amendments just shows that it is impossible to be an originalist. We learn over time what the Constitution means. It cannot be, should not be and isn't fixed. (That was also true of Justice Scalia's majority opinion in *Heller*, in which Justice Scalia learned from 19th century state judicial decisions that the second amendment should not be interpreted to protect concealed carry--why are 19th century opinions relevant to the original public meaning of the second amendment?)

5. I do impugn the motives of originalists. Originalists are generally on the political right. When they get results they like—such as the aforementioned regulatory takings—they do not ask, or they do so very gently, whether the public meaning of takings originally required loss of title. They do not ask whether corporations originally had rights against the government.

There is a game going on and the American people are not in on it. I assume that Justice Gorsuch, like Justice Thomas, intends to overturn the thrust of *J&L Steel* and return America to a vastly different and shrunken national government. And I know Randy believes that that result will just return us to the original Constitution. But if that is the case, why did he not just say so in his hearings? Because if he had, he would not have been confirmed. I believe he was on the list of potential nominees because that is his intention and belief.

But it is even worse than that. As the Trinity Lutheran Church decision shows, Justice Gorsuch is not a consistent originalist and neither is Justice Thomas. So, their eventual overturning of 80 years of basically settled law will just be the victory of a Party. It will be the victory of the rich against the interests of workers, the poor and the planet. And it will be done without ever trying to convince the American people that this result—not the misleading claim that the law is the law in general, but this particular result—is best.

Title: More Russia

Date: 2017-07-15T06:31:00.003-04:00

7/15/2017--Now what about Russia links and the email to Donald Trump Jr.? Is there finally a smoking gun? A friend of mine asked me why I have no interest in President Trump's collusion with Russia or any of the rest of his failings. This is what I wrote to him. Why don't I engage in activities of resistance--a term I really despise? (Not my friend's term). Two reasons--and they are related. First, President Trump's policies bother me much more than his unfitness and poor character. And the policies that bother me the most are mainstream Republican. Second, my anger for that is aimed squarely at the left and its anti-political actions. Somebody called it hobbyism. It would not be difficult for the Democrats to control the House and the Senate. But that normal political work is still not being done across the country--it is hard to do and involves trying to change peoples' minds. Hillary Clinton would be President today if she did not have such obvious contempt for voters inclined to vote for Trump. She never went to West Virginia to talk to coal miners. So, I am bothered almost as much as you are, but in an entirely different direction. To me Trump is an outcome of preventable actions and attitudes I don't know how to change. David Brooks is right that Trump Jr.'s reaction to that email--and his father's comment that most people would take that meeting--are almost a parody of amoral consciousness. That said, we still have a situation that is not collusion. Russia engages in espionage and law violation and then offers the results to the Trump campaign and they are willing to use anything they can get. As a friend of mine who supports Trump said, the Russians were finding out true things that should have been available to the American people--not making things up. So, would a normal person call the FBI? Obviously. Would a patriot tell the Russians to go blow smoke? Yes. But I have a sneaking suspicion that the Clinton campaign would have taken such a meeting--with a lot more deniability. Anyway, compared to the Paris Accord, Obamacare, the travel bans, the anti-trade, the court appointments, net neutrality, bank regulation, tax cuts when we are in deficit, etc., it's normal politics that is bothering me.

Title: Are Trump Supporters Moral Heroes on Healthcare?

Date: 2017-07-20T06:34:00.002-04:00

7/20/2017—Gary Abernathy, the publisher and editor of the Times-Gazette of Hillsboro, Ohio, wrote a column for the Washington Post that appeared in the Pittsburgh Post-Gazette last Sunday, entitled [Liberals Can't Fathom How Trump Voters See Health Care](#). His question concerned a common observation—many people who will be hurt by the repeal of Obamacare still support its repeal.

Abernathy's conclusion is set forth in this paragraph: "What they fail to grasp is that Mr. Trump's supporters, by and large, are more dedicated to the principle of freedom from government mandates than they are worried about the loss of government subsidies or programs that social activists in Washington think they need."

Well, maybe so. That is what I meant by the term "moral heroes" in the title above. There is always opposition in America to anything that smacks of socialism, for example, which is why we don't have single payer healthcare like other wealthy countries. But maybe Mr. Abernathy is a rich person living out a rich person's fantasy of pro-market dedication.

The reason I am not convinced is that some of the provisions that clearly help people, such as coverage for preexisting conditions and the age 26 coverage for children, never seem to get directly attacked. Some of the Republican plans would end or limit these provisions, but it is not clear that people understand this. I have yet to hear a single Republican Senator say, look, I'm sorry people get sick but we can't let the government tell insurance companies they have to insure people who are already sick. If that means they die, they die. Now if people supported that, you might be able to make this free market claim.

What is clear is that some people who have been aided by the Medicaid expansion support plans that would cut back this expansion. But even here, when I listen to my own Senator, Pat Toomey, who is a big part of limiting Medicaid expansion, he says no one will lose coverage right away and he only wants to make the program sustainable.

Then there is racism and bias against the poor. It is true that Americans often support cutbacks in programs that help them, but never the programs that help everyone or seemingly deserving groups like veterans. No one ever says that social security encourages irresponsible lifestyles, for example, or discourages saving. No one says deposit insurance interferes with the banking market. And isn't Medicare socialism for the elderly? But no one ever wants to limit that.

No, it is only programs like food stamps and Medicaid, which aid only the poor, or relatively poor, and which are identified, wrongly, as mostly helping people of color. Is cutting back on those programs opposition to government mandates or just prejudice?

But don't people who have benefited from Obamacare support its overall repeal? Yes, many do. But Obamacare always suffered from a perception gap. Even the people it helped did not feel that it did help them. Not that it helped them but people remained opposed in principle to government intervention—that would happen if people supported cutting their social security payments. Medical insurance premiums still went up. Healthcare was still costly and difficult.

Maybe that means Obamacare was not a good program, but it does not mean that people oppose government help or even mandates.

Look at President Trump's rhetoric. For the most part, he has said that people are hurting under Obamacare and we need a system that better helps people. That might be cynical or unattainable, but it is not the rhetoric of the free market. It is almost the opposite.

Finally, look at how the politics have shifted on Obamacare. In the polls, repeal was very popular for a long time. So popular that Democrats stupidly ran away from Obamacare rather than explain and defend it. That turned out to be a disastrous strategy because they still got the blame for perceived failures. Even Bill Clinton criticized Obamacare during the Presidential Campaign.

But, now, when repeal is actually at hand, the polls really have shifted. That suggests to me that the public now has a clearer idea of who actually might be hurt by repeal.

I don't think the public is opposed to government mandates on healthcare. In fact, I bet single payer would be more popular now than ever before. And will be even more popular once President Trump succeeds in killing Obamacare one way or another.

Title: Sunday op-ed in the Post-Gazette

Date: 2017-07-23T09:45:00.003-04:00

7/23/2017--Check out my op-ed in the PG today here. I argue for a cultural compromise on same-sex marriage and religious liberty.

Title: A Scandal at the Boy Scout Jamboree

Date: 2017-07-25T09:03:00.003-04:00

7/25/2017—Media reports state that when President Trump addressed the Boy Scout Jamboree in West Virginia yesterday, there were boos when he asked whether President Obama had attended. This is a disgrace. The Boy Scout Law includes the requirement to be “reverent.” It is not reverent to boo the former president of the United States. Of course we can blame the poor character of President Trump, who continues to show that aside from everything else, he lacks the character to be President. But I suppose we knew that already. I think it is fair to say that Vice President Pence for example, would not behave that way. But what of the Boy Scouts? How could that organization have come to this point? The Boy Scouts have clearly taught those children nothing of importance. And how could that organization not be profusely apologizing today? What goes around comes around. Someday, they will be booing former President Trump. That will not be any better.

Title: On Liberal Arrogance

Date: 2017-07-31T10:45:00.000-04:00

7/31/2017--Ross Douthat had a great column in the New York Times on Sunday, entitled [The Empty Majority](#). Douthat was raising the reasonable question, since the Republicans are so terrible, how come they control all three branches of the federal government and most State legislatures and governorships.

His answer was stark and convincing: "a party that's terrible at governing can still win elections if the other party is even worse at politics." Which, he concluded, the Democrats are.

And Douthat in a few lines explains what he means by terrible Democratic political practice: "Republican incompetence helps liberalism consolidate its hold on highly educated America ... but that consolidation, in turn, breeds liberal insularity and overconfidence (in big data and election science, in demographic inevitability, in the wisdom of declaring certain policy debates closed) and helps Republican support persist as a kind of protest vote, an attempt to limit liberalism's hegemony by keeping legislative power in the other party's hands."

Now, as those who have followed this blog and my work generally know, the confidence in election science I consider to be the highly anti-democratic side of liberalism. Liberals don't care about the will of the people anymore than do conservatives. That is a serious criticism.

But what about "declaring...policy debates closed"? Is that liberal arrogance?

Take two examples--one the reader knows about and the other more obscure.

The obvious example is global warming. Conservatives are forever criticizing liberals for declaring that there is no more to be said about global warming.

But this is not declaring a *policy* debate closed. It is declaring the fact of the matter pretty clear, at least in the absence of contrary evidence. The policy debate is what to do about global warming and I don't know anyone who thinks that matter is closed. You could do nothing and let the future take care of itself. You could adopt a market solution--aka, a carbon tax. You could extensively regulate.

But what are liberals supposed to do if someone wants to debate whether it is getting warmer? It's getting warmer globally. There is nothing to debate about that. It would be like debating yesterday's temperature. Of course I don't know that. I just read what the experts say. But why should I doubt temperature readings?

And what is a liberal supposed to do if someone says it's getting warmer but it's sunspots--or whatever. Or it is a natural cycle. Again, the experts have looked at this and concluded that the very likely reason for its getting warmer is more carbon dioxide in the atmosphere. After all, it has happened before with volcanic activity warming the Earth. And the greenhouse effect is well known for a long time.

It is not as if other causes were ever likely. When scientists overwhelmingly predict warming--in the 80's--and then it happens, it's probably because of the reason they cited.

Anyway, it's not usually counter argument, just assertion--it could be sunspots--or whatever. As the Monty Python skit put it, this is not argument; this is mere contradiction.

The obscure example is originalism as a method of interpreting the Constitution. I generally dismiss originalism as not a method at all and I have been criticized for the same liberal arrogance that Douthat is calling out.

But why should I debate something that calls itself a method, if it has no consistency? Why should I debate the merits of something that does not actually exist as if it were real? That makes originalism look better than it deserves to look.

My most recent example is the Trinity Church case of a few weeks ago. In that case, by a 7-2 vote, the Supreme Court held that the Free Exercise Clause required Missouri to let a church participate in a playground refurbishing government grant program. Justice Gorsuch, the self-proclaimed originalist, joined the majority opinion.

This expansion of the Free Exercise Clause could not be justified by reference to original meaning and the majority did not pretend to try to do so. And I have no problem with the outcome of the case.

But if an originalist like Gorsuch can do this, then I say originalism amounts to this: an originalist judge decides cases based on morality or policy preference--in this case protecting religious believers, a large part of the Republican base--and then only invokes history in order to overturn the New Deal. Originalism is just a cynical fraud.

Now why should I debate the merits of that as if it were on the up and up?

Last column for awhile. Summer begins August 1.

Title: Why Go to Mars?

Date: 2017-08-13T14:55:00.003-04:00

8/13/2017--As I was traveling, I had occasion to watch the series, Mars, on the plane. In the opening, the question arises, why go to Mars, both for the planners in 2016 and for the astronauts in 2033. The answer they give is to prevent humanity's extinction in some event, natural or otherwise. This answer is reminiscent of the current debates in the US over healthcare. It is defensive. Not dreaming of a better world or life. Just an insurance policy. We don't want to die. But on Saturday, the New York Times reviewed a documentary about the two Voyager spacecraft, still sending us messages from deep space after 40 years. This story begins with a healthier human instinct than mere self-preservation: "For any true believer in humankind's instinct to transcend boundaries... ." Even better might have been a reference to our desire to know about everything, including the universe. Now why the difference? When the spacecraft were sent--and even more when the idea was hatched and worked out--America was a spiritually healthier culture. A culture that could still dream of something important and hope for something better. Was it a culture of racism and mysogony? Certainly. But even in those ways, it could dream of something better. Not anymore. The producers of the Mars series had it right about us today. Only ourselves. Only our health. How small minded.

8/16/2017—Just like you can be a violent anti-racist, you can be a peaceful pro-Nazi protestor. The Nazis in Skokie, Illinois back in 1978 planned a peaceful march. This distinction also distinguishes between the ideology of a group and its actions. So, in terms of violence, it is possible for Nazis and anti-racist to “both be at fault” if both groups incited and planned to incite violence. But, of course, there can be no moral equivalence between the ideologies of racist groups and the ideology of anti-racist groups. The Nazis planning the march in Skokie were morally loathsome, but peaceful. I really still cannot find out what actually happened in Charlottesville, but a condemnation of the far right groups for intending violence emerged from a most unlikely source—Christian Yingling, a far-right militia leader, who was there. The Post-Gazette has a very good story about him in today’s paper, which quotes him saying of the far-right groups, “They weren’t there to support southern heritage. They weren’t there to protect the statue. They were there to fight, and it didn’t take long.” OK. So the fault for violence lies with the right. The other problem with the reporting is the issue of this statue of Robert E. Lee itself. I admire Robert E. Lee, despite his slave-owning. It seems clear that he joined the Confederate army primarily to protect his State from invasion rather than to promote slavery. Most of us would fight to defend America from invasion even if its policies were morally wrong. In general, I detest the moral antiquarianism that is motivating these attacks on slave owners in US history. Slavery was always morally wrong. And some of these slave owners—Thomas Jefferson, for example—certainly knew it. But context matters. And US history should not be cleansed this way, as if slavery was the only matter that counts. One day, all of the major figures of our time will be criticized for killing sentient animals and eating them. Then as now, we all know on some level that this is a moral evil and some people act on that knowledge right now. The criticism will be serious and just. But it should not be used then to topple monuments to Martin Luther King, Jr. One more thing. There never was such a thing as a citizen’s militia acting independently of the government. There was a right of revolution, to take up arms against the government. But outside of that, gun toting citizens took orders from the Governor of their State. So, unless Christian Yingling was invited to Virginia by the Governor, he had no business there.

Title: What a Weak President Actually Looks Like

Date: 2017-08-19T07:11:00.002-04:00

8/19/2017—I hear all the time about how Donald Trump was going to rebuild the military and restore respect for America with his more muscular views. Compared to Trump, President Obama was said to be a wimp. This view was repeated today in a column by Bret Stephens (who was ruing the deal with the devil that conservative Jews made to embrace Trump for such reasons). But in another story today, we see what real national decline looks like. Prime Minister Abe of Japan has reportedly decided to strengthen ties with Japan and join China's One Belt, One Road infrastructure project in Asia. This of course follows Japan's effort to keep President Obama's Trans Pacific Partnership, which Trump abandoned. President Obama was a cautious man. He presided over a country so divided that he knew Congress would not support him in more or less whatever he did. Unlike Trump, Obama usually did not promise more than he could deliver—Syrian chemicals weapons was the exception. Obama's caution and reserve was always seen as weakness—and, since perception is reality in part, it was weakness. But what we now see is that national decline is a real thing, not just a matter of perception. The policies that Trump was elected to enact—anti-trade, anti-immigration and anti-globalization and to an extent anti-diversity—are weakening American influence all over the world. The personal trait of blustering emptiness—see the military threats that are pretty unreal versus North Korea—that some Americans so admire are guaranteed to hurt the country. Obama's dignity and personal appeal turn out to be one of the best assets our country had. His intelligent long-term thinking maximized our country's opportunities. His Iranian deal was the best protection Israel could have gotten. Too many Americans just did not appreciate him. Now we see what a weak President actually looks like.

Title: Asking the Wrong Question

Date: 2017-09-02T12:45:00.000-04:00

9/2/2017—Too bad George F. Will is such a partisan. Will has been lambasting the left for its lack to commitment to the first amendment. And justifiably. But Will probably will not attack Senator Pat Toomey of Pennsylvania for his farcical town meeting and now for criminal charges against a man who asked the wrong question. According to the story in the PG, people submitted questions ahead of time and then questions were approved. The selected 600 people then were supposed somehow to ask only those approved questions. Well, so far, just a show trial. But then this guy asks this really strange question about whether Toomey will comment on a story that his wife was kidnapped. He's hustled out and now will be charged with interfering with a public meeting. My wife, Patt, thought the question sounded threatening and it does sound at least creepy. But the man is apparently not being charged with a threat. But with some form of breach of the peace. I presume that cooler heads will prevail. Unless the first amendment has been repealed, how can someone be charged with going off script? If I don't have a right to ask any question I want of my Senator when I am permitted to ask a question, then we don't have free speech. Anyway, if there are prearranged questions, then that is no public meeting. It's a stage show.

Title: Spending Money We Don't Have

Date: 2017-09-07T06:31:00.002-04:00

9/7/2017—Why are we borrowing money to help Houston? One way for a society to decline is to lose the self-discipline to fund those matters it deems important. Right now the federal government is running a deficit. Sending any money to Houston is therefore borrowed money. There is no monetary justification for adding to the deficit with a current 4.4% unemployment rate. It is the right thing to help Houston. It is also the right thing to pay for it. It would be simple to fund this money with a one-year surcharge on US tax returns. There are around 240 million returns filed. Even eliminating half of them would require only a surcharge of \$66 or so to fund the planned \$8 billion expenditure. This will not be done because America has no leadership. Republicans hate taxes even though they still spend money. Democrats hate taxes that remind people that government programs cost something. And the voters don't care that their grandchildren will pay for Houston one way or another. The next time you wonder why America is going downhill, just look in the mirror.

Title: The Iran Deal Stays and Median Income Is Up

Date: 2017-09-15T06:35:00.002-04:00

9/15/2017—Well, some good news for a change. President Trump did not abrogate the Iran deal yesterday, reports the New York Times—who even knew there was such a deadline? According to the story, the October deadline to find compliance is window dressing. Finding non-compliance does not affect the deal. But reintroducing sanctions yesterday would have abrogated the agreement. So, it may be that Trump makes anti-Iranian noise in October while carefully keeping the Iranian agreement. On the income side, household median income rose 3.2% to its highest level ever in real terms—finally surpassing 1999. And in the last two years, the growth has been over 8% in real terms. Nor has all this been just growth at the top. A column by David Brooks today states that income share of the poor is up 3%. Capitalism is working he says, and what is needed are policies that stimulate productivity growth. Brooks notes that this moderate growth should in part be attributed to the policies of President Obama. Actually, both pieces of this good news are attributable in part to President Obama, who pushed ahead courageously on Iran in the face of enormous opposition from the Republican majority in Congress and from within his own Party. Plus, he faced down Netanyahu, who badly misunderstood the best interests of Israel. So, President Obama: a really good President who looks even better today. Yet, let's end by giving Trump his due. He could always have governed from the center if he wanted to. A deal on DACA was suggested among Trump, Schumer and Pelosi. Good for them. Trump continued his racist hinting—both sides at fault in Charlottesville—even while dealing on immigration. Again, red meat for the base and maybe real policy for the country. Okay with me. Thanks to the Democratic leadership for not treating Trump like the Republican leadership treated Obama. To my conservative friends, look at the difference. Democrats really do deal when there can be agreement for the good of the country. Politics might dictate simple opposition, but the obligation of real politicians is the public good.

Title: More Lies: On Iranian Compliance and Deficit Denial

Date: 2017-09-22T06:54:00.001-04:00

9/22/2017—Could our public life become any more dishonest? This week comes news that President Trump will report that Iran is not in compliance with the nuclear agreement, even though that is not so. Hint—out of compliance with the spirit of an agreement—a phrase some spokespeople have been using—means you are in compliance. (I should have added "for now" to my last post.) The other news is that Senate Republicans have agreed on a \$1.5 trillion tax cut they say will not increase the deficit. More supply side nonsense. According to any sensible economics, you run a surplus with our unemployment rate, but that is beside the point. The reason deficit spending stimulates is that it adds money to the money supply—in other words, it is meant to increase the deficit. If this wacko theory worked, why wouldn't taxes be at .000001%? Think of the added revenue. Neither of these lies are even needed to accomplish policy goals. Trump can leave the Iranian agreement at any time just because he thinks it is a bad agreement—so go ahead. Just end the agreement because, under it, Iran is allowed to do bad things. No one disputes Iran's behavior. Just don't lie about the reason. Same thing with tax cuts. If Senate Republicans want to cut taxes, go ahead. Democrats are willing to spend more despite the deficit. So, it's the same stupid policy of deficit spending when the economy is humming along. Just don't lie about it. Did you hear Senator Corker of Tennessee—"I'm going to want to believe in my heart that we're going to be lessening deficits, not increasing." Who even talks that way? Whether tax cuts lead to greater deficits is not a matter of the heart, but the head. By the way even the Chinese are now learning that you can't just spend money. The reason they have been expanding is that they had the discipline to pay for what they want. We don't. And apparently now they are doing the same thing—borrowing—that we have been doing. Where are the American people? Why can't we curb lying by our politicians by ousting them from office? Is it that we want to be lied to? Even insist on it?

Title: The Drama of Religious Life

Date: 2017-09-30T05:16:00.001-04:00

9/30/2017—Today is Yom Kippur, the awesome day of judgment. Millions of Jews all over the world will pray today to be sealed in the Book of Life—they and their loved ones—for the coming year. Who will live and who will die. Who will be happy and who will endure tragedy. The Unetaneh Tokef prayer says that the severe decree can be averted. The following is from the site, My Jewish Learning: The prayer of Unetaneh Tokef is climaxed by the culminating verse, which the congregation proclaims as one: “Penitence, prayer, and righteous acts avert the severe decree.” In some of the older mahzors [holiday prayer books], there appear three other words, above “ , , tzedakah,” [repentance, prayer and righteous acts]in a smaller print: “tzom, kol, mamon”—fasting, voice, money. These represent the means or methods whereby one can practice the three virtues of penitence, prayer, and righteousness. For the ordeal of fasting leads to repentance; the voice is the medium of soul-stirring prayer; and the contribution of money to a worthy cause represents an act of “tzedakah.” Now, I freely admit that I can no longer live this way. Something in me rebels against this very prayer. Of course human beings in their pride always rebel against God. But I no longer feel that my rejection is unjustified. Nevertheless, that old story is not my reason for raising the matter today, on Yom Kippur. At the end of the 24 hours—actually a little more—a Jew emerges refreshed and alive. Her soul has actually been cleansed. On a smaller scale, this happens every week after a religious service. This is the drama of religious life. The religious rhythm is one of ordinary life and special occasions. It is a genuinely satisfying way to live. Without it, life is one gray line. Partly, this rhythm is the result of the pattern of occasions. The secularist can replicate that to an extent. But partly this is the result of contact with ultimate meaning on a regular basis, which can be impossible to experience. The practice by some of substituting politics for religion leads to disastrous results. The question remains—how can Hallowed Secularism be lived? I have never answered that question with any conviction. I still don’t know.

Title: Debate on Originalism

Date: 2017-10-01T17:23:00.000-04:00

10/1/2017--Last week I had the pleasure of exchanges at Duquesne Law School and at Pitt Law School with Rick Duncan of Nebraska Law School--not actually debates. Professor Duncan is both knowledgeable and forthright and I only wish national disagreements could be entertained as fruitfully. Both the students and I learned a great deal about law and religion and originalism. Here are my remarks on the Lutheran Church case and originalism, which I discussed on this blog in July. My thanks to Pitt Law School and the Pitt Federalist Society, as well as the Duquesne Federalist Society for the invitations.

Trinity Lutheran Church and the End of Originalism
Bruce Ledewitz

In July, I engaged in an extended exchange with Georgetown Law Professor and, it is fair to say, America's leading originalist, Randy Barnett on this subject of Trinity Lutheran Church and the end of originalism. Suffice it to say, the exchange went Randy's way. You can look it up.

But, since, as all law students know, it is possible to lose a debate to a more skilled and more intelligent adversary even though you are actually right, I thought I would try again to explain just what a disaster Trinity Lutheran Church is for the doctrine of originalism and why originalism should have to be retooled in light of that case.

Trinity Lutheran Church held that the State of Missouri was required by the Free Exercise Clause to allow a church to participate in a playground resurfacing reimbursement grant program. The constitutional violation consisted in prohibiting the church's participation in a government benefits program solely because of the church's religious character.

From the point of view of originalism, what is noteworthy about Chief Justice Roberts' majority opinion and the concurrences by Justices Thomas and Gorsuch is the unwillingness of any Justice in the majority even to attempt to justify this result by reference to the original public meaning of the Free Exercise Clause or the original public meaning of the 14th Amendment under some theory of due process incorporation.

There is no way to interpret that original public meaning and come to the conclusion that a government's refusal to provide public funds directly to a church could violate the Free Exercise Clause. Justices Sotomayor and Ginsburg in dissent conclude that providing funds directly a church violates the Establishment Clause. Whether this is so or not—and there is ample historical justification for their conclusion--nothing about the adoption of the Free Exercise Clause could lead to the opposite conclusion that such direct government funding is required. Government funding of churches was highly disfavored among the founding generation. If the interpretive principle of originalism is that the understanding of the framers and the public must determine the content of a constitutional provision, then the decision in Lutheran Trinity Church is just plain wrong.

Some originalists, including Justice Scalia, have suggested that since our constitutional system is based on precedent, even originalist Justices must be permitted to base decisions on clear lines of precedent. But that approach does not justify Trinity Lutheran Church for two reasons: first, the Court's precedents have actually recognized the constitutional difference between directly funding a religious institution and providing such funds indirectly, as for example through a parental educational voucher system. On the few occasions when such direct funding has been upheld, it has only been with assurances, not present in the Trinity Lutheran Church record, apparently, and certainly not demanded by the Court, that the government funds will not be used for religious purposes. (and the "next" case of using government funds to rebuild a church sanctuary after hurricane Harvey demonstrates the point that the secular playground context is irrelevant).

Nor can the Trinity Lutheran Church decision be justified as an Equal Protection decision in Free Exercise garb. The majority premises the decision on Free Exercise grounds and expressly fails to reach the Equal Protection issue.

It is fair to ask why anyone should care that Trinity Lutheran Church departs from originalist principles. The reason to care is that Justice Gorsuch is widely regarded, and was in fact selected for the Supreme Court, as an originalist. Indeed, the issue at his confirmation hearing was not whether he was committed to that mode of constitutional interpretation, but whether that commitment would prevent the Constitution from adapting to modern life. Justice Gorsuch's response to that question was that

"The Constitution doesn't change," he said. "The world around us changes."

Judge Gorsuch said that the principles in the Constitution can adapt to the modern world, citing a Supreme Court ruling on GPS tracking devices. "I'm not looking to take us back to quill pens and the horse and buggy," he said.

But if the Constitution does not change, the framers' understanding that the Free Exercise Clause does not require direct government payments to a church would have to control. So, one reason that the case discredits originalism is that one of the Justices in the majority had just joined the Court in order to promote the very originalism that the decision in his first big case does not respect.

Yet, Trinity Lutheran Church is far worse for originalism than just not following that mode of interpretation. The main point of originalism, and the reason for what Randy Barnett calls its gravitational pull, is to eliminate, or at least reduce, subjective and political judicial decisions. Originalism is a response to the perception that by the end of the Twentieth Century, America was increasingly governed by the will of five Justices on the Supreme Court. The recent same-sex marriage case, Obergefell, is a perfect example of what originalists are afraid of. The recognition of same sex marriage jettisons a well-established tradition that marriage is an institution between a man and a woman and renders this change because of a claimed modern alteration in the moral/ethical outlook of only a portion of the American people.

That is precisely what the Trinity Lutheran Church case also does. Protecting religious believers was a central theme in President Trump's campaign. Religious believers formed a significant part of the coalition that elected him. Trinity Lutheran Church can be viewed as a payoff to that demographic in opposition to pretty clear traditional constitutional principles. If originalism is meant to prevent that kind of subjective, political decision, then the case is a direct repudiation of originalist methodology—a repudiation joined by Justice Gorsuch, its most recent and express devotee.

Furthermore, the failure of the originalist community to condemn Trinity Lutheran Church—Randy Barnett certainly did not do so in our exchange—suggests that even the academic community of originalists are not really committed to the methodology as much as they are to certain case results that originalism usually leads to. They also are willing to pay off religious believers for political benefits.

Ironically, what the Lutheran Trinity Church decision actually illustrates is the utility, even necessity, of the Living Constitution approach to interpretation. For, despite my methodological criticisms, I consider the decision a wise and fair one, just one that contradicts originalism.

While the original public meaning of the free exercise of religion did not include the idea of government directly funding a church, government spending in the late 18th century did not occupy the same role in American life that it does today. For better or worse, we have decided that much of civil society's activities will be funded by government spending. In our world, lack of access to government funds is a serious handicap to any activity, including religion. So, it is very reasonable today to consider a governmental exclusion from public benefits to represent an unconstitutional interference with religion. And that would include disaster relief.

But the creation of the Administrative State is not the kind of change in understanding that an originalist can acknowledge as justifying a change in interpretation. It is not akin to the invention of a body heat search device the framers could not have anticipated. The framers knew what taxation and spending are and, unless we conceptualize framers who have lived through the changes of modern life, we must say they would have disagreed with the Trinity Lutheran Church result in conception.

The change in the role of government I am referring to is more like the change in scale of violence that might justify very strict gun control laws, or the decline in societal belief in an afterlife that might render the death penalty a cruel punishment. But no self-proclaimed originalist would acknowledge changes like those affecting interpretation of the second amendment or the eighth amendment—and rightly so. For to so acknowledge would obliterate the distinction between originalism and the living constitution approach altogether.

Unexpectedly, considering who made up the majority, the Trinity Lutheran Church decision thus actually demonstrates the superiority of the living constitution method. What we want to know is whether an action by government actually interferes with the free exercise of religion. That interference is what the framers of the Free Exercise Clause wanted later generations to prohibit. If we become convinced that the framers were mistaken in their understanding of what would interfere with the exercise of religion, then we have to depart from their understanding. In other words, only the living constitution approach is faithful to the framers.

I believe that this criticism is a fair, and even theoretically persuasive, one. But, as Hilary Putnam once observed of his criticisms of logical positivism, it will not affect the vitality of originalism in the slightest. There are two reasons for this.

First, there is no principled alternative to originalism today, given our present understanding of reality. The framers were natural law thinkers. For them, the concept of being wrong about a fundamental matter was comprehensible. That is why they could write the Ninth Amendment. There could actually be fundamental rights that might be discovered by a later generation. If so, such a right should be protected by the Constitution. I believe they would consider some of the parental rights decisions to represent exactly such a discovery.

But if rights are not real, if a rights claim can only represent an assertion of human will and power, then the notion of reasoning about rights is an illusion. At that point, there is nothing objective and anything is possible. Original public meaning is at least a starting point that will restrain judges to a certain extent.

I consider this situation to be unsustainable. What we have learned is that the easy invocation of nihilism in a John Hart Ely, in his book *Democracy and Distrust*, for example, has disastrous consequences for social life. Over time, skepticism is an acid that eats away the rule of law completely. In addition, the work of Hilary Putnam, who spent his life struggling against these forms of positivism, gives us hope that postmodernism is not the last word. I hope we can recover realism about values. We are having a Symposium at Duquesne Law School in November on *Resurrecting Truth in American Law and Public Discourse*, which will address these issues. But that is for another day.

The second reason for the continued dominance of originalism is not so forthright and honest. There is a strong partisan edge to the current originalist grab for power. You could see it in the shameful treatment of Judge Merrick Garland. You could see it in the nuclear option invoked to confirm Justice Gorsuch. You can see it in the fervent support of President Trump by some leaders who disagree with him fundamentally. They are willing to put up with a lot in order to seize the Supreme Court.

What is behind this partisan push? Fundamentally, it is similar to what was behind the push to seize the Court from the left when it looked like Hillary Clinton was a shoe-in. Mark Tushnet actually put forth a list of proposed decisions.

On the right, the content of the push is not so clear, however. Certainly there is a desire on the right to head off any more attacks on religious liberty. So, the Trinity Lutheran Church decision was very much to be expected.

Beyond that, while overruling *Obergefell* and *Roe* might be anticipated by a Supreme Court on which President Trump has replaced Justice Kennedy, I don't know of any indication that Justice Gorsuch intends to do that. Certainly, he was not put on the Supreme Court with the expectation that he would do that.

What was Justice Gorsuch put on the Court to do? What explains the blood lust on the right to take over the Court when the Republican Party already controls the other two branches of the government?

At the risk of sounding like a conspiracy theorist, I believe the purpose of this recent effort is to overturn the Revolution of 1937, in both its Commerce Clause and due process aspects. Justice Thomas has consistently indicated his fundamental disagreement with the thrust of the *J&L Steel* case and its substantial effect on interstate commerce test. Justice Thomas wants to overturn the New Deal.

While the congressional commerce power was cut back in *Lopez* and *Morrison*, the Court in those cases made it clear that the power of Congress to regulate any matters remotely related to economic life was not being disturbed. *J&L Steel* was accepted even as its extensions were rejected. Now there may be two votes to overturn *J&L Steel*—Justices Thomas and Gorsuch — and soon there may be more. This is not your Justice Scalia's judicial conservatism.

The other side of the Revolution of 1937, the due process holding of *West Coast Hotel*, may be similarly at risk. Randy Barnett has expressed his view that the *Lochner* Court was not wrong in its understanding of liberty of contract, but erred in following the repudiation of the Privileges or Immunities Clause of the Fourteenth Amendment in the *Slaughter-House* cases. And I imagine Randy will have a say as to who is next nominated to the Supreme Court.

I may of course be mistaken about all this. But if I am right, then many politicians in Congress, including some Republicans, are in for a big surprise. As are the American people, unfortunately. If this judicial revolution is going on, it is going on in stealth.

Since, as the *Luther Trinity Church* case demonstrates, originalism is not a consistent or coherent method of interpretation, its self-professed devotees should have to defend these changes in constitutional meaning on the merits and not, as they like to pretend, as simply what the Constitution says.

Title: Jewish Witness on the West Bank

Date: 2017-10-09T01:06:00.004-04:00

10/9/2017--The October 6, 2017 issue of the Jewish Chronicle in Pittsburgh brings an unusually effective critique of Israeli policy on the West Bank in the person of Ivan Frank, a well-known Pittsburgh peace advocate and former Israeli soldier. Ivan, whom I have known for many years from my Dor Hadash days, visited the West Bank with his wife Malke this past summer. The story he tells of the oppression under which ordinary Palestinians live is truly horrifying. You have to wonder both how there can ever be peace considering the hatred such treatment ensures and also what the Israeli goals really are. Judging from the account, the goal would seem to be to make life so impossible for the native population that they somehow leave and Israeli settlers take their place. In Hebron, the once thriving market area is closed and Palestinians barred from driving. There are 850 illegal Israeli settlers in Hebron guarded by 600 Israeli soldiers. The settlers honor the late Meir Kahane, whose grave is in Hebron, and Baruch Goldstein, who in 1994 murdered 29 Palestinians praying at the cave of the patriarch. Ivan also traveled to the South Hebron Hills and the Negev. He observed that there are no paved roads, except near Israeli settlements. In the Bedouin villages in the area, no permissions for building homes is ever given and the homes that are built are bulldozed. The fields are often burned by settlers seeking more land. The government is seeking to move villagers away from their traditional homes. The Jewish National Fund is building roads to allow expansion of Israeli settlements. It is a depressing story that few American Jews know. The people Ivan met were not terrorists and wanted only to be free to live on their own land in their own homes. It should also be noted that among the Bedouin being forced out are veterans of the Israeli Defense Force. That makes no difference. The Jewish Chronicle deserves tremendous credit for allowing Ivan to tell his story. I can only imagine what the response will be from some segments of the Pittsburgh Jewish community. It has been obvious for years that Prime Minister Benjamin Netanyahu either supports an Israeli takeover of the West Bank or is willing to see it happen by slow increments. He certainly is not going to allow a Palestinian State to emerge. The real failure here is a religious one. Where is the religious witness from the Orthodox community that sees all human beings as brothers and sisters? It seems that in Israel, the more religious you are, the less humane and loving you are to non-Jews.

Title: A Communal Spiritual Wasteland

Date: 2017-10-17T05:59:00.001-04:00

10/17/2017—I am in danger of making Gregg Epstein my bete noire instead of the late Justice Scalia. Epstein is the author of *Good Without God*. I should not have negative thoughts about him because in a way, we are involved in same project—attempting to bring to birth a vibrant and flourishing non-religious civilization. Since a non-religious civilization is coming one way or the other, this is a crucial project. But Epstein symbolizes for me the mistakes one makes in going about this effort. *Good Without God*, as if the major difficulty in doing without God is to keep from killing each other. A far more relevant title would be *Trying to Understand Good Without God*, because that is the issue. What does it mean to be a good person? Mostly, Epstein just gives us conventionality—but that bakes basic theistic premises in without acknowledging them. The Peanuts comic strip on Sunday, 10/8/2017, presumably from sometime in the 1960's or 1970's, illustrates my point. The setting is the familiar fall scene of Lucy grabbing the football at the last second when Charlie Brown tries to kick it. At the beginning, Charlie Brown cries out, "How Long, O Lord?" Lucy responds that this quote is from the Sixth Chapter of Isaiah and she proceeds to quote the rest of the line. Then, Lucy gives a theological critique of the section, noting the "note of protest" from the prophet who "was unwilling to accept the finality of the Lord's judgment." OK, not every Peanuts episode was like this, but quite a number were. Remember, Peanuts was popular culture. Charles Schulz assumed that he was speaking to regular people. Not scholars. But that meant that the Bible at that time was a kind of common spiritual inheritance in the culture. This means a kind of common spiritual vocabulary. How can a society be anything but a wasteland without such a common vocabulary? There is more to living a satisfying life than just not committing murder. Without a way of talking about spiritual life, how can anything beautiful happen in the culture? Large emotional movements will still occur—witness the populist explosion in the 2016 election--but they will be without reflection. Who can now speak deeply to a united America as a Martin Luther King Jr. could—even those who disliked him understood him. This is no lament for the common Bible. But Gregg Epstein has not yet seen the problem. Maybe we need to educate each other in all the great spiritual traditions of humanity to create a new and even broader vocabulary of spiritual life. Have you seen any progress on that front?

10/24/2017—Imagine my surprise on Sunday when conservative New York Times columnist Ross Douthat called on the Democratic Party to adopt some kind of winning strategy to save the country. (Democrats in Their Labyrinth) Maybe even more surprising was the opening paragraph, in which Douthat implied that there was really only one currently workable Party—the Democrats: “America has two political parties, but only one of them has a reasonably coherent political vision, a leadership that isn’t under the thumb of an erratic reality television star, and a worldview that implies a policy agenda rather than just a litany of grievances.” But then Douthat got to his main point—the Democrats are not doing what is necessary to win: “Unfortunately for the Democrats, their vision and leaders and agenda also sometimes leave the impression that they never want to win another tossup Senate seat, and that they would prefer Donald Trump be re-elected if the alternative requires wooing Americans who voted for him.” I saw Douthat’s complaint at work last week when I received a fundraising call from a candidate in a congressional campaign in the midst of a Primary. The candidate said Democrats should run “true blue” candidates for Congress in a national strategy. I answered that I don’t give money to Districts outside my own in Primaries because I believe the voters in those Districts should decide. (I still believe the decision of the Party to back McGinty over Sestak cost the Democrats a potential win over Toomey). In any event, I said a “pale blue” strategy in some parts of the country would work better in winning seats. This was Douthat’s argument. Douthat admitted he would like to see the Party move closer to his own social agenda positions on abortion and immigration. (Douthat said that Doug Jones’ support for unlimited abortion on demand could elect Moore, whom Douthat called “a Senate candidate manifestly unfit for office, a bigot hostile to the rule of law and entranced with authoritarianism.”) But Douthat then said even if the Democrats stay the course on a social agenda, the Party could come to the center on economic issues rather than ride the single-payer healthcare train to oblivion. More to the point, Douthat complained that the Party was failing to acknowledge any need to do anything to attract the working class voters who supported Trump and bring them back to the Party. He might have added—the country doesn’t need resistance. The country needs to vote these people out of office. But it takes some give by Democrats to accomplish that.

Title: Is This Collusion?

Date: 2017-10-31T04:49:00.002-04:00

10/31/2017—It's certainly appropriate that on Halloween, Democrats finally get an indictment in the Russia probe. For this whole thing has been about ghosts and goblins all along. I admit I have a political motive in all this. I don't want Vice President Pence to become President. Trump is easier to get rid of. But I could live with impeachment and removal if justified. How, however, can he be impeached for things the voters knew when he was elected? The voters get to choose the President. It was already known that the Trump campaign was willing to use what the Russian government offered. During the campaign, Trump called on the Russian government to release all the emails it had on Hillary Clinton in an effort to damage her. I was appalled by this, but it was done in plain view. We also already knew that the campaign was willing to meet with persons with ties to the Russian government who promised dirt on Clinton. We found that out in July with regard to Donald Trump Jr. What all this shows is that the Trump campaign knew that the Russian government was trying to help it and that the campaign was eager to accept that help. I would be more outraged if I thought Democratic Party operatives would turn down dirt on political opponents and instead contact the FBI. But I don't have that confidence. In any event this is not collusion. It is the Russian government deciding it wanted to help Trump beat Clinton. And a political campaign that had no honor. The voters chose it. I have the same feeling today I had when President Clinton was being hounded. Political enemies want anything they can find to bring down a President. They don't want to engage him and they don't want to convince the country to reject him. An independent prosecutor is so much easier than real politics. In the end, Trump will stay and his supporters will find all this bitterly anti-democratic. Or, worse, Trump will leave office and his supporters will turn even darker than some of them already are. Democracy is the loser.

Title: America is Recovering from President Obama

Date: 2017-11-04T15:34:00.003-04:00

11/4/2017—Readers of this blog know what a hero Barack Obama is to me. Yet, I read with approval last week's column by Tribune columnist Jay Ambrose that America needed to recover from Obama and however badly, Donald Trump is helping do exactly that. Given all the criticisms that Ambrose piles on Trump—"[his] ignorance, his narcissistic juvenilia, his verbal klutziness, his vulgarity and a sea of tweets"—what is it that Trump is helping us recover from? President Obama governed by Executive order. He did this not just in areas of traditional Presidential discretion, such as deportation policy, but in areas like healthcare where there is no justification for Presidential lawmaking. An easy way for a country to lose its power of self-government is to permit strongman rule. That is just what President Obama did over and over again. It is no answer to say that the Republican Congress was unrelenting in its opposition to anything Obama wanted to do. That is true but irrelevant. Such opposition requires a political response—run against the opposition Congress, as President Truman once did. Some of these actions were justifiable because they really did not involve law—such as the Paris Climate Accord. But many did. This is why Trump is so easily dismantling the Obama legacy—he who lives by executive action unfortunately dies by it. It is good to be reminded that law, actually legislation, really matters.

Title: "An Act of Pure Evil"

Date: 2017-11-07T05:02:00.002-05:00

He also called Sunday's shooting in a Texas Church "an act of evil."

The President is not alone. Lots of people refer to shootings like these as "evil." What is the meaning of calling these kinds of acts evil, as opposed to deranged or the act of a mentally disturbed person?

The first instance I remember of calling terrorism "pure evil" was its invocation by President George W. Bush in reference to the 9/11 terror acts. In that instance, the motif quickly became political. President Bush was willing to call these acts pure evil but some Democrats or liberals were not.

I remember thinking at the time that terrorists thinking they were defending Islam from attack and willing to die in that defense should not be called purely evil or cowardly. They were doing an evil thing, but they were not motivated by a pure desire for the death of others. These terrorists were like a lot of other terrorists—willing to kill the innocent to achieve a greater good. A terrible thing, but not pure evil.

That is not what is going on in cases of domestic American terrorism. (Should it be called Christian terrorism as opposed to Islamic terrorism? Are these shooters Christians?) Here, calling these mass shootings evil seems to be a way coming to grips with them without having to think about either public policies that might prevent them or the actual motivations of the shooters, which might help identify such people.

I'm not sure this is conscious. Among politicians I am sure it is a studied rhetorical strategy. Among regular people, it may be quite unconscious.

A talk show radio host was on NPR after the Las Vegas shootings and he said his listeners did not want to talk about policy, but about human nature. This is like the saying of Jesus about the poor—the evil ones you will always have with you.

But there are simple policies most everyone agrees with, some of which are already in place, that might prevent some of these kinds of shootings. For example, the Air Force now admits that its failure to enter the court martial conviction of the Texas shooter into the federal database allowed him to purchase the semi-automatic rifle he used in the shooting. In the case of Las Vegas, the kit to convert a semi-automatic weapon to a fully automatic weapon could be effectively prohibited, leaving fully automatic weapons to be experienced on licensed gun ranges. In theory, I believe the NRA supports both policies.

Similarly, we should be desperately studying these shooters to find out more about them. Granted, the absence of news about them—the public learns relatively little about them—does prevent their glamorization and maybe prevents copy cats. (Who remembers the Connecticut shooter?) But we as a nation should be trying to find out what makes someone end his own life by shooting a large number of people he does not know. Was the Pulse shooting in Orlando really about hatred for gay people, for example? Why didn't the shooter in Texas target just the

people he was angry at? And what lay behind attacking a music concert or five years before that, a movie theater in Colorado?

Calling all these different things “evil” prevents us from learning anything. You might as well say, with Flip Wilson, the devil made me do it.

Finally we get to see the gun fantasy of armed bystanders confronting the shooter, which happened in Texas, and how worthless it is even when it happens. The 26 people were already dead. Prevention is the key. You can't prevent evil, but maybe sometimes you can prevent this.

11/14/2017—Well, I did wonder how President Trump would turn out to be Mussolini. That is the charge I put on my door at school in the days before the 2016 election. I wrote that everyone had an obligation to vote for Hillary Clinton because Trump might be the last President elected. But then I thought for a long time that I had overreacted. President Trump has enacted many policies I disagree with and proposed many more, but he had not in any way taken aim at democracy. Now he has. President Trump has now apparently convinced the Attorney General to appoint a special prosecutor to investigate Hillary Clinton's handling of the State Department. Let me add that my concern has nothing whatever to do with evidence of corruption by Secretary Clinton. There has been a lot of evidence supporting allegations of pay-to-play surrounding the Clinton Foundation and the government. So, this entry is not about innocence. I am not defending Clinton. Her guilt or possible guilt in anything has nothing to do with it. In other countries, a change of Party Administration means that opposition figures will be prosecuted. Those countries quickly lose their democratic qualities. In America, politics has never been a blood sport. You leave the former President alone and honored. You don't investigate his associates. You don't jail your opponent. Because if you do, then next time that is what the Democrats will do. You can investigate anybody. Who is to blame for this descent into authoritarian government? Well President Trump of course is the immediate cause. But aren't the Democrats trying to destroy President Trump for encouraging the Russians to hurt his opponent?—he did that right out in the open during the campaign. No independent prosecutor was needed. And don't we all know the Democrats would have done the same in a heartbeat? And didn't the Republicans, including President Trump, do all they could to destroy President Obama's credibility and ability to govern, including falsely, oh so falsely, claiming he was not born in Hawaii? It turns out that payback is a bitch not just for one person but for everyone. Do I know how to stop this destruction of my country? No. Are we incapable of stopping? Unfortunately, yes.

Title: Resurrecting Truth at Duquesne University School of Law

Date: 2017-11-18T04:49:00.001-05:00

11/18/2017--I was too busy to blog about the extraordinary Symposium at Duquesne these last two days: Shall These Bones Live?: Resurrecting Truth in American Law and Public Discourse. The Symposium took shape with the Time Magazine Cover question back in April, Is Truth Dead. There was a tremendous cast of speakers. The event can be watched by accessing the Symposium webpage here. The keynote on Thursday was Louise Antony, well-known philosopher at UMass. On Friday, there were two panels and a plenary session. The first panel consisted of Justin Dyer, University of Missouri, Kinder Institute on Constitutional Democracy, Lawrence Solan, Brooklyn Law School, me and, as moderator, Jennifer Bates, Duquesne University Department of Philosophy. The second panel consisted of Heidi Li Feldman, Georgetown University Law Center and co-convenor of the Symposium, Alina Ng, Mississippi College School of Law, Bradley Wendel, Cornell Law School, and, as moderator, Elizabeth Cochran, Duquesne University Department of Theology. Will Huhn, visiting professor of law at Duquesne, moderated the plenary session in which he put a serious question to each speaker. These are extraordinary people and the program was a serious exploration, mostly non-partisan, of some of the deep sources of democratic disease in America and what can be done about it. I did not know any of the participants before, but the combination of discipline, style and approach was very helpful in elucidating where we are and where we might go. Several people told me they had never seen an academic gathering so seriously focused, not without humor, on a single problem. I felt, and I'm sure some of my students did as well, that this is what a law school should be doing today. But I don't know of another one that is. I am grateful for the support, planning and participation by the Dean of Faculty Scholarship at Duquesne, Jane Moriarty and for the institutional commitment by Dean Maureen Lally-Green, who cut short a trip just to be present at the Symposium. Lots of people worked very hard to pull this off. Duquesne is a special place. I was remiss in not mentioning and thanking Robert Taylor, retired professor of law, during the program, but it would not have made much sense to outsiders. People who know Duquesne could see his fingerprints all over this event. He held ones like it and he stretched the Law School during his time there beyond what law schools are usually capable of. And then there is his ongoing impact on me... .

Title: The Revenge of Ruth Ann Dailey

Date: 2017-11-21T05:37:00.003-05:00

11/21/2017—Duquesne University has an apparent policy—I have never seen it written down, but I have seen it in practice often enough. The policy is, to call the police. When there is an alleged sexual assault, the University brings in the Pittsburgh police.

This policy serves to distinguish between crimes and matters for University discipline. Crimes are not appropriate for a non-governmental entity to deal with. They are for the authorities that investigate crime. Rape is rape, whether committed by a stranger or a fellow student.

Ruth Ann Dailey wrote a [column](#) in yesterday's Post Gazette that reminded me of Duquesne's policy. In it, she said, you should distinguish between crimes on the one hand and inappropriate behavior on the other. If you are not clear in your distinctions, real victims will not be served.

And, in addition to not addressing victims, we will be back at the helpless woman stage. A woman generally can be expected to tell a guy she is not interested in to leave her alone.

Dailey's own example of inappropriate but not criminal behavior was an older guy she did not know putting his hand on her backside while waiting in the rain. She was willing to say that is just gross behavior not rising to the level of sexual assault. This is the kind of gross behavior—groping strangers—that Trump and Franken have engaged in. There is no excuse for it, but it probably does not rise to the level of a crime. It would certainly cause me to lean to not voting for someone. But if not a pattern, I cannot see throwing someone out of the Senate for it. (Although if this had been her boss, I'm sure she would say that at least the civil law has to address such workplace harassment).

Compare that to statutory rape. That is what Moore is guilty of if there was any kind of touching of a fourteen year or sixteen year old girl. Similarly for any kind of touching of an underage boy. The statute of limitations has run on these actions, but criminals are criminals and have no place anywhere.

Where does that place Bill Clinton? Consensual sex in the workplace with an adult woman is not a crime. But it is a violation of the civil law because the law sees that genuine consent is not likely and because even the invitation to it creates a hostile work environment. This is similar to the prohibition on law professors having any kind of romantic involvement with students. It is bad for everyone and would get me fired. That does not deny that workplace relationships have led to happy marriages on occasion. It is just a dangerous practice on many levels.

But, of course, as Ross Douthat wrote on [Sunday](#) in the New York Times, Clinton was a serial predator who used government resources to pimp and then bribed witnesses to lie or obstruct justice—a lot more there than one instance of oral sex with an intern. Douthat has changed his mind about removal of Clinton after his impeachment. Maybe the rest of us should too.

But, Dailey's point is that behavior like some of that attributed to Glenn Thrush, the New York Times reporter, does not belong in this conversation. Laura McGann wrote an [article](#) in Vox describing Thrush engaging in unwanted touching with three unnamed women. About that I

don't know any of the details, but in one reported incident, Thrush was a bar with a young reporter and he came on to her, she rejected his advances and was left in tears.

There was certainly a power imbalance there as the woman was in her 20's and Thrush, as the article said, would be good to know as a seasoned media star. But he was not her boss and had no direct financial role in her life.

Other instances were different and amounted to groping out of the blue.

It seems to me that all this has to be treated on a cultural level. The rules are not that difficult. Crime is crime and consent, or lack of consent, is not that hard to discern—or in the case of children, not possible. No one should be subjected to unwanted touching of any kind. If it is sexual touching, it can rise to the level of assault. Power imbalances have to be addressed institutionally and not case by case—banned in the workplace and in professional relationships, like lawyer and client or doctor and patient.

That leaves the fundamental problem of the woman who thinks that a man respects her work and it turns out he is just interested in her sexually. Personally, I believe this is best dealt with by getting involved only with people you like and respect. But I'm not sure I know much about the world. I never went home with anyone from a bar.

Title: David Brooks Gets the Need for Hallowed Secularism

Date: 2017-11-23T06:32:00.001-05:00

11/23/2017—Happy Thanksgiving. Thanksgiving has always stood as the one religious holiday that secularism has been able to assume. This is surprising, since giving thanks is an essentially religious attitude. Thanks has to be given to someone or something. For the early actors in the holiday, that would have been the author of life—God or the Great Spirit. And now? The hallowed secularist has no problem giving thanks for this universe we did not create that gave us life and sustains us. That kind of deep cosmology is not supernatural and is only put off by the atheism and materialism that insists the universe does not care about your purpose. Why take that attitude? The universe made beings who have purpose. So, don't assume the universe does not care. As CS Lewis might have said, the universe went to a lot of trouble to create you like that. This is reconstruction of the culture. David Brooks wrote yesterday in the PG, here, that elites do not get the need for moral formation. We are losing those institutions—primarily caring, loving, stable families. The elites provide those but then insist that individualism is all that is necessary—economic individualism on the right and lifestyle individualism on the left. This is called naked liberalism. Brooks wrote that the young know this is not enough, but people over 40 don't know it. Brooks should get out more. People at Duquesne know it, which is why we could have our symposium there. And it was in that spirit that I wrote hallowed secularism. But, returning to my story above, Thanksgiving reminds us that it is cosmology, not morality, that is needed. Those moral institutions themselves must rest on something. Brooks does understand this--he talks about re-enchanting these formative institutions, but it is clear that he does not have a feel for how this happens.

Title: The Acting Director and the Rule of Law

Date: 2017-11-29T05:25:00.002-05:00

11/29/2017—If the rule of law is to mean anything, and it is not clear that it any longer does, there must be instances in which the law commands things people don't like. So it should have been with Senator Elizabeth Warren and the question of who is the acting Director of the Consumer Financial Protection Bureau. It is clear that President Trump is about to dismantle everything that agency was supposed to stand for, but that is the consequence of electing him. As President, he has certain powers, constitutional and statutory. One of those statutory powers is generally appointing acting Directors of Agencies upon resignation of the Director. The issue here is purely statutory, since there is no constitutional authority to appoint acting Directors. Senator Warren claims that the current Deputy becomes acting Director because of language creating the Agency that the Deputy is acting Director in the "absence or unavailability of the Director." But that language could not apply since there is no Director. The Director has resigned. So, the President is free to use his default powers. If the statute meant to deny the President this authority, it was not written clearly. That language looks like simple housekeeping in case the Director has a cold or is abroad. All of this actually shows something else. We are used to making policy not in Congress but in Administrative Agencies. This gives enormous authority to people who are not themselves elected and are not really bound by statutory standards. That means policy depends on Presidential appointment. You cannot really have independence from elections in making policy in the long run. Nor should you. Even the Fed will change because Trump did not reappoint Yellen. I guess we should consider law, as Justice Scalia might say, so that policy will not instantly change when we lose an election.

Title: The Criticism of Mark Lilla They Don't Want You to See

Date: 2017-12-02T06:48:00.000-05:00

12/2/2017--I have been frustrated in trying to get my criticisms of Mark Lilla's attacks on liberal identity politics out to the public. Here my latest failed example in a proposed letter to the Editor that the New York Review of Books did not publish.

To the Editor:

Jonathan Rauch wrote a fair and restrained review of Mark Lilla's book, the *Once and Future Liberal: After Identity Politics* (NYR November 9) about how identity politics have hurt the Democrats politically. But neither the review nor the book actually have much to do with why Hillary Clinton is not the President today, nor with the primary way that Democrats lost touch with ordinary people. Donald Trump was elected with the overwhelming support of religious believers. For years, the Democrats have been associated with a relentless attack on religion in general and on religious believers in particular. Rauch does not mention religion at all and it is obviously not a focus of Lilla's analysis of what is wrong with identity politics.

The most dramatic symbol of Democratic hostility to religion was a suggestion in oral argument in the Obergefell same-sex marriage case that religious institutions might lose their tax exempt status if they failed to adapt to a judicial decision constitutionalizing same sex marriage. When I visited Regent Law School before the election, that comment had turned the 2016 election into almost a last stand for religious believers and had overcome the enormous distaste that many believers had for Donald Trump. In the *Washington Post*, David Bernstein called this The Supreme Court Oral Argument that Cost Democrats the Presidency, and in a narrow loss, that is exactly what it was.

There is a reason that Lilla cannot raise the issue of attacks on religion as a reason Democrats have lost touch with ordinary people. Lilla himself was one of the New Atheists who attacked the role of religion in political life. His 2007 book, *The Stillborn God*, argued that religion was an irrational force that was best kept out of public life. Lilla shared the hostility toward religion that has cost Democrats so dearly.

But Lilla's attack on religion demonstrates an even deeper flaw in his current analysis of identity politics. In 2007, Lilla was attacking not just religion, but any conception of the common good in public life. In order to ward off irrational and dangerous political movements, politics should be truncated and restricted to individualistic competition for limited goods. He wrote, "[W]e have chosen to limit our politics to protecting individuals from the worst harms they can inflict on one another, to securing fundamental liberties and providing for their basic welfare... ." This is a basically anti-political stance and demonstrates Lilla's narrow conception of the public good.

The New Atheists who argued that all values were merely individual choices never could conceive of a robust politics, which must involve competing conceptions of the good life, rationally promoted. They thought that kind of politics was impossible and dangerous. But Lilla should not now complain that this shrunken view of political life leads to an over emphasis on group identity. In the absence of a conception of the common good, what is left to a person who is dissatisfied with Lilla's individualism but group politics?

The New Atheists, Sam Harris, Christopher Hitchens, Richard Dawkins, Lilla, and all the rest, never admitted their responsibility for the decline of American public life. Their relentless attacks not just on religion but on the whole notion of the good, and of a meaningful universe, left us with nothing but a politics of zero sum games between hostile groups. They led us here.

A different kind of politics used to be possible. When Martin Luther King, Jr. engaged in what might be called identity politics, he did so in the name of all of us. He said, "The arc of the moral universe is long, but it bends toward justice." That justice for one group was a common good that benefited all people—even the racist would benefit in the end. That is the kind of identity politics that can bind rather than divide. But, as in King's case, it requires a commitment to a moral universe that is totally beyond Lilla's conception. Here is where a political rejuvenation of America is possible.

12/8/2017—For eight years, the Democratic Party argued that the debt limit and keeping the government running were not policy decisions, but basic responsibilities of Congress. Increasing the debt limit essentially allowed the government to pay for spending that had already happened—it was simply paying bills. So was basic funding legislation. The place to decide policy issues was elsewhere—whether money should be spent in the first place, for example. Therefore, President Obama repeatedly argued, this kind of legislation had to be “clean,” without unrelated and usually controversial provisions. Threatening to shut down the government or default on paying debts was dangerous blackmail. Well, now, of course the shoe is on the other foot. Now Democrats lack any access to pass legislation and are threatening to shut down the government if a dreamer provision—legislation to protect immigrants illegally brought to the US as children—is not included in the funding legislation. I believe this legislation is a good thing, but that could not be more irrelevant. Previously, and for years, the Democrats were not arguing that Republican proposals were bad ideas—they thought they were—but that good or bad they did not belong in bills like these. Obviously, all that is now out the window. This is how decline happens. One Party—not always the Republicans (see the end of the filibuster)—engages in irresponsible conduct and then the other Party, when it gets the chance, does the same thing. For example, the Democrats are certain to block any Supreme Court nominees by President Trump if they get the chance. Things will not get better this way. When you fight fire with fire, the whole world burns. When you forgo principle, you lead your nation to chaos.

Title: When Can Due Process Be Dispensed With?

Date: 2017-12-10T06:18:00.002-05:00

12/10/2017—President Trump makes the point about Roy Moore, the Republican candidate for Senate and the subject of sexual predation allegations, that his denials also have to be taken into account. Of course, President Trump is making no effort to resolve these conflicting claims and so one must be suspicious of his real motive for saying this, which is unquestionably to get Moore elected and worry about sexual predation later.

But Garrison Keillor similarly claimed to have been fired without a chance to tell his side of the story about allegations of sexual harassment and he plainly wanted a full investigation.

So, the question remains—when is it appropriate to dispense with due process—not as a legal matter but as a matter of fairness?

The seemingly obvious answer is never, but that is not right even when due process is legally required. For example, sometimes denials are not relevant to the issue at hand. If a law professor on a team trip invited a student to a hotel room and had sex, the claim later that the sex had been consensual would be irrelevant. (It would be relevant to a criminal prosecution for rape of course). The faculty member would be fired for having sex with a student. Consent is irrelevant to that question.

More to the point in a lot of these cases is that the denials are equivocal. That suggests that something like this happened but maybe to somebody else. Judge Alex Kozinski says of allegations that he showed porn to law clerks, “I have no recollection of that happening.” This is not a denial, it is an evasion. The only appropriate response would have been, “I know that did not happen because I have never done anything like that in my life.” That is what I would say if a former student alleged I had shown her porn on my computer.

But the fact that Democrats are not immediately calling for Kozinski’s resignation shows how much politics are involved in even this wave of maybe finally cleansing the workplace of sexist hostility toward women. While liberals like Masha Gessen of the New Yorker calls the half of the country that voted for Clinton—of course more than half—[“morally superior”](#)—that is by no means apparent. Both sides have forced out congressional representatives—Republicans forced out Tim Murphy in October when evidence showed he urged his lover to get an abortion and Trent Franks is resigning now over urging aides to become surrogates bearing his child.

And neither side has yet shown it is willing to do so when there would be a serious political consequence. I believe the reason Judge Kozinski has not yet faced calls on the left to resign is because President Trump would replace him with a conservative judge. Eventually the hypocrisy of this double standard will be too much and the Judge will be forced out, but the immediate lack of reaction is pretty telling.

On the Republican side, there is the now common denial of trust that permits decent people to mouth things that are not true. Most people voting for Moore are claiming to believe that the allegations are not true. But how they could not be true is never made clear—just how does a 30 year old man date a fourteen or seventeen year old girl without committing the crime of sexual assault of an underage person? Here is an example where due process would really be helpful since it would finally show what a predator Moore is. Anyway, voting for Moore, like wanting to keep the Judge, shows how sick America is when it comes to partisanship.

Title: Good News from Alabama

Date: 2017-12-13T03:09:00.001-05:00

12/13/2017--Good news from Alabama, where Doug Jones defeated Roy Moore in a close race. First, a genuinely bad person will not be in the US Senate. Second, the alt-right will be discredited in the Republican Party--after all, Moore's opponent would probably would have won. Third, it will be harder to discredit women who tell their stories of sexual harassment--of course in Moore's case, it was actually criminal conduct. Then there is the issue of abortion. The pro-choice movement will say that it finally arrived with the win of a clear pro-choice Senator from the deep South. I believe that Jones won despite being pro-choice and that it was only that factor that caused Moore to come so close to winning. But who can be sure of that? With any luck, the Alabama Senate race will be the beginning of the Post-Trump era.

12/20/2017—President Trump released a new national security document with his usual bluster—the US is back. But with Trump everything is bull—he is a real estate salesman after all. The same NY Times edition that notes Russian and Chinese reaction to that fairly aggressive document notes some of the ways that US decline has accelerated under President Trump. Exhibit A is Australia, which is trying to figure out how to deal with a rising China with the US “less reliable” while Chinese power grows. But of course this was why President Obama pushed the trans Pacific partnership that Trump dropped—and the Democratic Party did nothing to defend. Exhibit B is the irresponsible tax cut. Democrats complain that it favors the rich. But all tax cuts favor the rich—they pay more taxes. That is not the problem with the bill. The problem is cutting taxes at all with a huge and growing debt. We don’t have the money. It is not a tax cut, it is a borrowing bill aimed at my grandchildren. It only adds \$1.5 trillion to the debt and that figure is only that low because the bill cynically repeals tax cuts its sponsors expect to retain. No bankrupt power is ever great. China grows because it is genuinely in the black—for now. Exhibit C is the growth in Canada in startups because foreigners can get work permits there. Of all the stupid fears Americans have, the fear of Islamic terrorism is the strangest. We kill each other every day. Call it normal American Christian terrorism—the shooters are nominal Christians. It makes ISIS look like a day at the beach. So we give away our open economy—traditionally our biggest economic advantage. Exhibit D is Chinese leadership in fighting global warming and cleaning up the environment—while the US pushes coal. And does not even do that by funding projects like carbon capture that might both revive coal and create other jobs and advance technology. Exhibit E is the train crash that even Trump acknowledges shows we need more money to rebuild American infrastructure. But of course we can’t do that because we just cut taxes—see supra. What a list of failures. Sure the market is up—it was up under Obama too.

Title: The Christian Picks Him Up

Date: 2017-12-25T09:17:00.002-05:00

12/25/2017—On this Christmas morning 2017, a simple test to see if you are a Christian—I'm not. This morning, I tried to run on the Duquesne University hill, but it was too cold and too icy—22 degrees and windy. So, I got in my car to return home. On the way home, I passed a hooded figure trudging along on Ross Street with two suitcases. He might have been going to the train station, in which case I would have been happy to give him a lift. But it was more likely he was a homeless person with nowhere really to go on Christmas morning. Nothing nearby was open. Maybe mentally ill. Not only did I not pick him up, despite the cold, but when the traffic light turned red not far from him, I tried to position the car so he could not knock on my window. The Christian picks him up—and not just on Christmas morning. When Jesus was born, something new came into the world. Nothing like the story of the good Samaritan had ever been told in the Jewish tradition and certainly not in the pagan tradition. (I doubt any other tradition either, but what do I know of India or China or Africa?). That parable sets the standard for Christian unconditional, unself-regarding, love. Radical love. Of course not just in the personal sense, but not just check-writing either. You don't have to tell me that 99% of churchgoers don't pick him up either. I already know that. But it is really not the point. Good Without God? Don't make me laugh. Not too many of us are good. Not too many Christians around. Merry Christmas.

Title: 2017

Date: 2017-12-31T05:05:00.000-05:00

12/31/2017--I am working on a new book, to be titled, A Universe of Self-Government: Democracy After the Age of Trump. Here is a sample from the Preface, which will serve as a look back at the past year, and a look forward as well. (With a nod to my son, who contributed several lines).

It was the worst of times. It was a time of Presidential candidates most people did not want. It was a time of anger and distrust. Of circling the wagons against outsiders. A time of racism and misogyny. It was a time of big business—big oil, big tech, big drugs, big money. It was a time of trashing the Earth and fleecing the consumer. It was a time of denial and permission. Of impulse. A time of payback and manipulations, foreign and domestic. A time of vulgarity. It was a time when the Republican Party could nominate a likely pedophile for the U.S. Senate.

It was a time of the outsized flaws of the man who gave the age its name—the Age of Trump.

And yet. It was a time when Republicans would join with others of good will to defeat Roy Moore. A time when women discovered a new voice and African-Americans named white nationalism. When cities acted to protect the climate. When free trade and science found defenders. When the first fragile shoots of decency reappeared. When we learned that Presidential action alone proved insufficient and that bad ideas have consequences. We learned the connection between deplorables and deportables. We learned that no one is to be demeaned. No one left behind.

It was a time of recovery. The beginning of After the Age of Trump.

How do we prepare for After Trump? It will be difficult. In December, 2017, the columnist David Brooks began an intermittent series reminding Americans of the grandeur of democracy, which, he wrote, Americans no longer know how to defend. He began with the 1938 defense of democracy by Thomas Mann, arguing democracy's unique emphasis on the dignity of man as made in the image of God.

Brooks' effort is beautiful, but pointless. For we need to understand why these classic democratic sources no longer speak to us. What is needed is not remembering, but inquiring as to why we forgot in the first place. Now, there is no God in whose image we are made. There remain many religious believers. But that kind of God is no longer a source of cultural renewal. God's supporters are fighting defensively, for a lost status quo. And the whole Biblical tradition of classic liberalism lies in tatters around us.

Americans of all types retain a common acceptance and faith in democracy as a way to do what is right, but we find ourselves disgusted at the path it takes to get there. I hear people talk about their confusion and frustration with a democratic system that seems lost. Yet somehow through all the confusion, there is a deep dedication to the core of democracy. I often wonder what is at this core and how it is that justice seems to creep through. Where does justice come from? How can we have justice if everyone has a right to their own point of view? Has the idea of universal truth died?

Democracy needs a new foundation—one that speaks to this age. That foundation will have to be the universe itself. Thomas Mann will always have an honored place. But our starting point must be elsewhere.



POSTS:
2018

Title: Greetings from San Diego

Date: 2018-01-06T08:29:00.000-05:00

1/6/2018—As the East freezes, the AALS is holding its annual meeting in San Diego. This is a coincidence. The organization does hold such meetings in winter weather cities as well. Is it me or is there a distinct lack of focus at this year's meeting? Actually, there is a focus, but it seems to be teaching methods. I am not coming to the aid of bad teaching, but I think of bad teaching as a lack of focus by the faculty member and a lack of insight into the material. More frequent assessments, team learning and so forth are matters that, at the graduate school level, should be the responsibility of the student, not the professor and not the institution. But that is easy for a faculty member at Duquesne to say, with its high bar pass rate. Other than that, the AALS has lost its concern with the future of American democracy. Last year, the threat was President Trump. Now, a sense of fatalism is creeping in. On the other hand, among African American's and other minority groups, there is a clear sense of positive momentum. The attendance at this year's meeting seems much more diverse than in past years. Given the emphasis on diversity, this positive trend was to have been expected. But what about America? Not on the agenda, it seems. The main theme is access to justice—read more money to lawyers. Not very controversial and irrelevant, given government funding cuts. The other theme is intellectual diversity, which is pretty funny. The AALS is so one-sided that last year, when they wanted balance on the panel to be discussing Trump, they found an anti-Trump conservative. Still no representation from Fox News on the future of journalism panel on Wednesday. The question we should be asking is, how do we recover from this moment in American public life? More and more, especially given good economic news, conservatives seem to be deciding that Trump is worth a deal with the devil. Very unfortunate decision.

Title: Dangerous Hypocrisy on the Right

Date: 2018-01-09T05:08:00.000-05:00

1/9/2018—During the Obama Administration, I heard protests from conservative law professors about executive overreach in general and challenges to individual liberty in particular—like the alleged IRS treatment of tax exemption petitions by right leaning groups.

But, now that the threats are coming from the Trump Administration, I hear nothing. And these threats are much more dire. Maybe I am just not hearing them.

There are three such immediate threats. The most obvious is the criminal investigation of a losing Presidential candidate. I don't believe America has ever done this before and it is a sure way to lose democracy. You think it won't be open season on private citizen Trump next? This objection has nothing to do with whether Secretary Clinton was guilty of a crime. Leaving the loser alone is a structural protection of the democratic process. Nor does it have anything to do with investigations of President Trump. It's always open season on government officials.

The other two threats come from the new tax law. One is the excise tax on large university endowments. Here is a description: "The bill includes a 1.4 percent excise tax on investment income at private colleges with an enrollment of at least 500 students and with assets valued at \$500,000 per full-time student. That reflects the more narrow proposal included in the Senate bill. The House bill would have taxed colleges with assets valued at \$250,000 per full-time student. The provision is estimated to raise about \$1.8 billion in revenue over 10 years. Lawmakers have estimated it will affect about 35 institutions."

The 35 institutions estimated to be affected are not all liberal by any means. The University of Chicago is affected, for example. But the overwhelming majority are and this was quite intentional.

So, what we have here is government specially taxing its enemies. Do I even have to point out what a catastrophe this is? This is the very tyranny that conservatives have been warning us against for decades. Now it's actually here and nothing is said.

The other provision violates the norms of federalism. Congress should have no opinion about the domestic policies of the States. But this bill for the first time caps deductions for local and state taxes. Its aim is to be put pressure on high tax States like New York and California to change their liberal tax and spend policies.

Personally, I like this tax change, but that has nothing to do with the principles of federalism. States should be free from pressure from Washington to change their domestic policies. Imagine a Democratic Congress refusing emergency hurricane relief to Texas and Florida because of their lack of State income taxes, on the ground that they should first raise funds to aid their own citizens before the rest of us should have to pay for relief. Same principle.

Conservatives have consistently protested efforts in Washington to treat the States like outposts of the federal government, carrying out its policies. But, suddenly, because the imposed policy is lower taxes, the critique has disappeared.

These are big and unprecedented threats against democracy. If not protested, they will become the new norms.

Title: What President Trump is Accomplishing

Date: 2018-01-14T06:09:00.002-05:00

It is a reminder that rating a President is not just a matter of policy outcomes.

But if Democrats do not pay attention to policy outcomes, we will be surprised that President Trump retains a great deal of support among people who voted for him in the first place. (President Trump is coming to the 18th congressional district in Pennsylvania to stump for the Republican candidate in an upcoming special election and no one seems to doubt it will help that candidate).

So, start with economic performance. The President's tweets that the latest jobs report showed the lowest unemployment rate for African Americans ever recorded, 6.8%, is accurate. (The number began to be analyzed in 1972). That's good news, period.

The point made in an NPR report on the claim—I never even saw coverage of the claim, which says something pretty bad about the mainstream media—that President's don't deserve much credit for numbers like that—is ridiculous. Presidents always take blame and credit for numbers like these. And in general the public rewards and punishes precisely along these lines—was President Bush responsible for the 2008 recession? The Republicans were hammered for it.

Then there is the GDP, the gross domestic product—a fairly broad category of economic growth (although it contains the basic biases of this kind of measure—it does not necessarily measure good things, just monetized things). Under President Obama, GDP growth never really gained traction. There were good quarters and bad ones, every year. The GDP growth in 2016 was 1.5%. Under President Trump, 2017 GDP growth will top 2.3%. That may not sound like much, but it is an addition to the economy of around \$1.4 trillion. That does not all go to rich people.

The good effects of all this growth are not just higher wages (although that is the best thing—the tightening labor market is the reason wages at Wal-Mart are going up, not the new tax bill.) There was a story in the NY Times today about how workers with criminal records are now getting hired because employers have no choice.

Nor is all the regulatory cut-back bad. On January 12, the New York Times ran a [story](#) about how the fraud rule rollback benefits black colleges that probably were not its target in the first place. Not all regulations are good.

And even the tax bill's fundamental change—lower corporate rates—reflected a policy President Obama basically supported. It was apparently a good idea.

Now none of this reflects that the bills for all this have not come due yet. Presidents Clinton and Bush relaxed regulations on lending that led to the 2008 recession that more than undid all the prior growth. It is poor tradeoff to gain oil drilling jobs by ruining the climate and the national parks.

Nor does any of this change the disaster Trump is internationally—allies cozying up to China, a potential war with North Korea, undermining the successful Iranian nuclear agreement. And much more.

But if we do not note Trump's successes, not only will we fail to understand his appeal, we will fail to learn from those successes. President Obama would have been very happy to have had these numbers. He never did.

Title: Shutting Down the Government

Date: 2018-01-18T05:29:00.002-05:00

1/18/2018—Remember when Republicans irresponsibly threatened to shut down the government? Remember when President Obama insisted he wanted a “clean” bill providing funding to keep the government functioning? You might as well remember that Democrats used to be in favor of lowering the corporate tax rate. Democrats are not only hypocrites—we are hypocrites with amnesia. That means that we would take inconsistent positions, but we have forgotten that we are even changing policies. Right now, the Democrats are threatening a government shutdown if a dreamer provision is not included in the funding resolution. This is the same irresponsible conduct the Republicans routinely engaged in under President Obama. For the record, keeping the government operating is not a policy option, it is the basic responsibility of Congress. Blackmail, which is what a threat to shut down the government is, is not a tactic that responsible leaders use. It does not matter what the issue is or how important it is. The Democrats hope to retake the majority in Congress and the White House in 2018 and 2020. Then they will face the same Republican tactic of shutting down the government and threatened default on government bonds. Republicans don't mind doing these things, since some Republicans in Congress think government is fundamentally a bad thing anyway. Democrats are supposed to want government to work for people. The Democrats have missed their opportunity to end all of these bizarre charades. They could have insisted on a new legislative framework in which debt extensions and spending continuation are automatic unless Congress passes new legislation. Then, the Republicans could not use these same tactics later. Basically, it is time to get back to the basic tasks of governing. It is time to let the American people, not just your vocal base, decide things. Granted, the Democrats have no leverage. The Republicans can pass bad legislation. They can refuse to pass good legislation. Needed legislation. That has nothing to do with shutting down government operations. The Democrats need to remind the people that electing Republicans has bad consequences and then retake Congress. America needs the Democrats to be the Party that actually governs. Not the mirror image of the Republican Party.

Title: Distrust on Climate News

Date: 2018-01-23T05:52:00.000-05:00

1/23/2018—Well, this is a first. NASA reported, and AccuWeather ran a [story](#) about the report, that 2017 was the warmest year worldwide without the kind of El Nino event that made 2016 so hot. This is all part of the recent trend that has sent surface temperatures up and has led to 17 of the warmest years ever recorded occurring since 2001. All this is much warmer than the 1951-1980 mean temperature.

It's global warming. Since ice is melting everywhere, it's not like we're being asked to believe something we cannot also see.

The shocking thing is that by this morning, there were 19 comments, all of which denied the report in one way or another.

I'm not naming names, nor criticizing (at the moment). It's just astounding. But it does show that skepticism about information we don't agree with is now so deep that it is hard to see how the situation changes.

In order: I don't believe any information about climate because it is all just politicized. Surface temperatures are manipulated and comparisons with the past are not technically possible. Unadjusted temperatures tell a different story [there must be some statistical technique that NASA uses that is being referenced by several comments]. Plant hardiness zones show that we are only returning to the 1940-1960 period in temperatures and any upward movement is caused by new thermometers installed in the 1970's. [someone responded critically to that last comment]. 2017 is just a continuing fallout from 2016—temperatures don't fall precipitously. Anything out of a government agency is a lie to keep tax money coming in. Con artists are always looking for ways to get our money—I did not even have to turn on air conditioning in Minneapolis last year. [that one got another critical comment]. You can't change weather. Looks like people are waking up and I am going to remain unbiased. Still waiting for palm trees along Lake Michigan. Bullshit. Earlier comparisons are impossible. Just a way to raise taxes. It has been proven that the "data" have been "monkeyed with." People change stats to suit their agenda. Research shows that all the planets in the solar system are warming—solar cycles. It's just to establish socialism. Just warming back to Pliocene, when humans were not around. Decades don't matter compared to 30,000 years. Just a weather anomaly. Politically motivated pseudo science.

Shockingly, this is it. All the comments. And AccuWeather is not a conservative news site. How can policy be made if we can't agree on the basic facts? This is skepticism as a basic attitude, not as a method to derive truth. I'm not surprised that some people feel this way, but it seems a lot of people feel this way. That means society itself becomes irrational. I don't mean the comments are all wrong—I mean that whatever is being asserted means to end discussion and is not open.

That quality is not a monopoly of the Right. Where is there openness?

Faith has to operate here for most of us. If the government just lies, there is nothing that can be done, since most of us are in no position to judge any of the data. I certainly am not. Scientists tell me it is getting warmer. They tell me there is liquid water under a moon of Jupiter. I expect scientists to do their best to get it right and other scientists to check. Many Americans have decided that this is not how science works anymore. Now what?

Title: Two Stories Perfectly Illustrate Our Deadlock

Date: 2018-01-28T05:06:00.002-05:00

1/28/2018—Two stories in today's New York Times perfectly illustrate America's weird dysfunctional state. First, the good news: all sectors of the world economy are growing for the first time in years—since the 2008 recession and even before—thus lessening for the moment the centrifugal forces that had been tearing people apart, including Brexit and the election of Donald Trump. (This good news does not extend to coal and steel in western Pennsylvania, reports the Tribune Review, but who really thought they would recover?) In particular, estimates for 2018 growth in the US have gone up from 2.3% to 2.7%. That change adds around \$720 billion to the economy. Now, the bad news. The New York Times also reports that Congress is in complete collapse. Partisan deadlock. This really makes no sense. Republicans should be jubilant. They are getting exactly what they predicted from the tax cut bill and from the anti-regulatory policies of the Administration. Trump is a bad man, but basically so what? Democrats should also be happy basically because this expansion is based on Obama Administration growth. It's good, but it shows that there are real limits to economic growth. The small additional growth is being purchased by irresponsible policies, like tax cuts that will increase the deficit and more oil and gas that will worsen global warming, that are not sustainable. But even with these bad policies, the ridiculous promise of 4% growth is not attainable. Arguable, but not the end of the world. Besides, the Democrats should have been able to say they supported the only good thing in the tax cut bill—lower corporate rates that President Obama proposed and the Republicans stonewalled. We could have had higher growth for years if Republicans had put their country ahead of their politics. So, everybody has some good news. The reason for the gloom is simply that we have no hope. No underlying vision of a better world. No common ground to enjoy being Americans together. Too many of us, not all but many, hate too many others of us. What has to change is the way we view reality. More on that change later.

Title: Where's the Crime? Release the Memo

Date: 2018-02-01T06:00:00.002-05:00

2/1/2018—Today's New York Times has more news on the investigation of President Trump. On the one hand, the FBI is opposing release of a memo prepared by House Republicans purporting to show that the FBI and the Justice Department abused their authority to obtain a spy warrant for a former Trump campaign adviser. On the other, that special prosecutor Robert Mueller (actually special counsel) is investigating a trumped-up lie (if you'll pardon the expression) that the Trump campaign released to cover up why they met during the campaign with Russians claiming to have dirt on Hillary Clinton—they claimed the meeting was about adoption policies. Can any news be clearer that there is nothing here and we need to move on? As for the memo, the FBI says it is inaccurate and incomplete. Fine. Let's all read it and see. Can the Democrats be so stupid as not to see that the only way to show us its inaccuracies is to let the public see it? What are they afraid of? That the Republicans will tell a lie? I'm sure Republicans realize that their advantage in this narrative will disappear once the memo is released and they are in no hurry. And as for claims that the memo will violate confidential sources or whatever—I haven't believed such claims since the Pentagon Papers. As for the lies about the meeting, since when is lying to the American people by politicians a crime worth investigating? Of course Donald Trump is a liar. And dishonorable. But the behavior of his campaign is the same as his speeches at the same time: in public, he asked Russian hackers to release any dirt on Hillary Clinton that they had learned. How can doing the same thing in a meeting be a crime if doing it in public is not a crime? Am I supposed to believe that the Clinton campaign would not have met with a foreign source claiming to have dirt on Trump? Didn't they? Gaining from a crime is just not the same as conspiring to commit it. Presumably, Mueller knows this. It is relevant to the subject of Russian interference with the election, but it has nothing to do with impeachable offenses. Why can't the Democrats just get back to the fact that he is a bad President? Neither of these two stories helps regain Congress next November.

Title: The Democrats: Stupid Again

Date: 2018-02-07T07:27:00.002-05:00

1/7/2018—This time stupid on immigration (maybe the most recent prior instance was not applauding a low unemployment rate for African-Americans at the State of the Union Address—talk about putting politics above the welfare of the people). I did not hear who was being interviewed on NPR Morning Edition, but he was part of the bipartisan group trying to protect the dreamers. (I have since been told that he is a representative to Congress from Arizona). So, he was asked the obvious question—what are you willing to give up to get a deal with the President? The answer was nothing. This person said, “I’m not willing to fund a stupid wall with taxpayer money just to fulfill a campaign promise by President Trump.” Pardon me? What does the word “compromise” mean if it does not mean giving up something you don’t like? So, the reporter asked again, then what is the compromise? Answer: the compromise is that President Trump has to agree with what the bipartisan group comes up with. No, he doesn’t. If this is a cynical ploy to gain political advantage at the expense of the dreamers, then shame on the Democrats. If it is sincere, then it is short-sided. You can’t force President Trump into this humiliation. He is perfectly willing to sacrifice the dreamers. You think he has a conscience? The most absurd part of this is that for political advantage the Democrats should give President Trump what he is asking for—a taxpayer funded wall in return for protection of the dreamers. First of all, they keep faith with the dreamers. Second, they allow President Trump to finally own the breaking of a campaign promise—a wall Mexico would pay for. The Democrats can simply say that they were forced to fund the wall with taxpayer money by President Trump in order to protect the dreamers—Democrats win, President Trump loses. As for the wasted money, the wall doesn’t actually have to be built, you know. President Trump just wants to say he got his way—be careful what you wish for. Where are the smart Dems? Apparently nowhere.

Title: David Brooks: "it's time to start something new"

Date: 2018-02-13T11:33:00.004-05:00

2/13/2018—David Brooks writes today in the New York Times of the need of something new to combat what he calls "scarcity consciousness." (The End of the Two-Party System). Brooks notes that we used to have—as recently as the 1990's--an abundance mind-set, which means basically optimism that things were getting better and would continue to get better. But today, after economic downturn and partisan warfare, it's all us vs them—life as a zero sum game in which my gain is your loss. Permanent warfare. Tribal life. Importantly, Brooks notes that this is not a conflict of ideas. It is more like a switch from philosophy to anti-philosophy. What Bernard Lonergan called self-refuting theses. The defining tone of the scarcity mindset is the gospel of resentments. Anti-immigration is the perfect embodiment. Evangelism becomes a siege mentality. Brooks concludes: "The scarcity mentality is eventually incompatible with the philosophies that have come down through the centuries. Decent liberals and conservatives will eventually decide they need to break from it structurally. They will realize it's time to start something new." Unfortunately, Brooks seems to mean that we need a European-style multiparty system. That structural conclusion does not follow from his starting point. What follows from his argument is that we need a new starting point in consciousness. Why do we no longer believe in the promise of the future? It is not the case that empirically things got so bad we lost trust. The 2008 downturn was not as bad as all that. Rather, the 2008 downturn occurred as the religious story of a benevolent universe had lost its power. That is why a return these days to prosperity is not undermining the scarcity mindset. What we need is a universe we can trust. What we have is a universe of blind forces that are without a goal and rob our purposes of ultimate meaning. We can regain a universe we can trust, but getting there has nothing to do with politics, or political structure, as such.

2/17/2018—Yes, undoubtedly there are policies that would prevent school shootings and mass shootings in general. There are probably even policies that would pass Congress that would be helpful. How about a real prohibition on the illegal modification of semi-automatic weapons to machine guns?—that would have saved lives in Las Vegas. How about an armed guard at every school? Metal detectors? These policies don't pass because it is in the interest of politicians and interest groups to maintain political solidarity against the other side. Compromise is not in the interest of these people. Democrats have to talk gun control. Republicans have to talk mental derangement. It is a script even if it does not solve problems. That deadlock is a symptom of a larger issue. How have we come to be so divided that we don't want to work together even to protect children? That larger issue has an even deeper foundation. Why is it Americans want to shoot other Americans? What kind of society produces people who kill at concerts and schools? I understand Islamic terrorism to some extent. It is a protest against American and Western policies in Islamic lands. What are the domestic shootings about? America has always been a place that prizes individualism. That is why America never had the real mass socialist movements of Europe. But now that the social structures have broken down—churches, families, neighborhoods—now that we are isolated screens and ghostly social media presences, we are actually going crazy. At the base of all this is the new story of reality—everything is an accident of contingent physical forces and your life has no meaning. Or, as the New York Times column put it in July, *The Universe Doesn't Care About Your Purpose*. Tell that story often enough and watch the hatred and carnage. Those are the wages of nihilism. So, health requires more than policies. Health requires a new story. There is one, to be sure. But where can you hear it? Here and in some other places. It is the story of natural meaning—of divinity within nature. It is the story of a new kind of teleology. It is a story of the holy and of beauty. A universe of self-government. That will be the new foundation of democracy one day.

Title: Just a Judicial Power Grab

Date: 2018-02-20T05:56:00.003-05:00

2/20/2018—What is the matter with Democrats? With visions of retaking the House of Representatives dancing in their heads, they endorse the violation of judicial process norms in the Pennsylvania Supreme Court's drawing its own congressional map with no input, no hearing and no comment. Actually, it was not the Court. It was four Democrats. (my comment in Pitt Law School Jurist magazine here) Other than pure partisan politics, what was the rush? The plaintiffs filed this case in June, 2017—11 months before the scheduled primaries. Since the case could have been filed anytime since 2012, the plaintiffs are the reason no new map could emerge for 2018 in a normally run case. And why was there any decision at all? Prior precedent held that Pennsylvania law follows federal law. The US Supreme Court is considering gerrymandering right now. Why was there no stay? Why was there no real trial? A November order gave Commonwealth Court weeks to come up with findings of fact and conclusions of law. Why did the Pa Supreme Court take jurisdiction over the case? Where is the evidence of original Republican Party intent to discriminate? No one bothered to prove it. Why was there no real opinion in the case? All the opinion said was required was compactness. So, why was last week's GOP leadership plan unacceptable? It was much more compact. Because compactness was only a floor, said the original opinion in the case. Well, then what is the law of gerrymandering in Pennsylvania? No one actually knows. The Court never said. And where were the Republican votes on the Court? Chief Justice Saylor acknowledged that the 2011 Plan was an extreme partisan gerrymander that might require judicial action. His vote was there for a bipartisan solution. Not this disgrace. The four Justices were in too much of a hurry to retake the House to give him a chance to come on board. This judicial power grab undermines any hope for a rule of law. This judicial power grab reinforces the view that there is no Truth. There is only an original Republican power grab and now a Democratic power grab—this one perpetrated by the one branch of government that is supposed to be above partisan politics. And Democrats dare to gloat? They have just given in to their worst nightmare. The Death of Truth they attributed to Trump they now own. You want to see nihilism? Look in the mirror.

Title: When I Left the Darwin Day Committee

Date: 2018-02-24T14:00:00.000-05:00

2/24/2018—Penn Statim, which is the online Penn State Law Review, has published my short non-fiction piece—originally written for a nonfiction contest I did not win—When I Left the Darwin Day Committee (here). The story is about my experience in 2008 with the evolution wars in public school and their fallout among scientifically oriented people. The events took place in 2008, but, unfortunately, they predict very well the place we have ended up and why. Think of these events when you think about Donald Trump’s narrow win in Pennsylvania. Here is the opening. I did not quit the Darwin Day Committee at Duquesne University over its plans for Darwin Day 2008. I did not really quit at all. Nor was I actually asked to resign. I just sort of drifted away by mutual consent. The Committee was celebrating a Pennsylvania victory over reactionary creationism. I saw that victory too—I really did. But, at the same time, I was mourning a tragedy of confused parents trying to maintain a meaningful world for their children. The Committee could not see the harm they were doing. They thought they were doing the right thing. It was a long time ago now. But, today’s supporters of Donald Trump are some of those same parents, and the Darwin Day Committees of the world still don’t understand them.

Title: Want to Make America Great? Pay Your Bills

Date: 2018-03-01T05:43:00.000-05:00

3/1/2018—I am disgusted by the tax cut. You don't cut taxes when you are running large deficits, have a 4.1% unemployment rate and have large upcoming bills from an aging population. The predictable result--\$1 trillion deficits forever. Oh, and naturally, spending limits were then rescinded. No one is going to give up benefits for the sake of tax cuts that went largely to the rich—where tax cuts have to go since the wealthy pay a lot of the taxes.

What is going to happen is increased inflation followed by higher interest rates followed by a recession. I defended large deficits in 2009, when we were in recession. That was good Keynesian economics. But what do you do in the next recession when you already have \$1 trillion deficits going in?

Already, the first signs of inflation have appeared and interest rates have started going up. Therefore, the stock market has already gone down. Enjoying that tax cut? I've already lost more in the market than I am going to get back from the tax cut.

The two ridiculous justifications from the right. First, the tax cut will pay for itself. Usually, this line is a fantasy and it is here. Republicans in Congress just repeated it so they could act to cut taxes without a bad conscience. It is a rare situation when cutting taxes brings in more money. Yes, eventually you can get more growth in the economy, but you have related growing federal spending too. You don't catch up. If it were true, then the tax rate should be 1%--think of the growth you could have. The rare situation can be true when tax rates are so high that they have led to cheating or other avoidances—the corporate part of the tax cut could have been structured to bring in more money than it cost, from offshore. But the tax cut wasn't limited to that.

The second ridiculous justification came from right-wing intellectuals. Freedom, they said, does not depend upon deficits, but upon the size of government. Better a \$2 trillion federal budget with a \$1 trillion deficit than a balanced \$4 trillion federal budget.

Two problems with this line of thinking. For one thing, you don't get reduced spending. You get a \$4 trillion budget with \$1 trillion in revenue. Worse, you get inflation and recession. These are worse for "freedom" than balanced government spending. Think of what inflation does to the grandmother who has retired. All of her life choices are now constrained. Where is her freedom? Think of the worker who loses his job. Where is his freedom?

But the way, the Democrats were no help here. They don't care about deficits either. They just prefer to achieve them by unbalanced spending, which they claim will pay for itself—it also won't. Their complaint was only that the tax cuts went to the rich.

It would not have been the slightest better if the tax cut had been limited to payroll taxes. There should have been no tax cut at all. I will get some satisfaction from the disaster that this brings. I will say I told you so. But I will be the poorer in money, just like everybody else.

And America will continue her decline. You don't get national greatness from borrowing.

Borrowing means China will eventually determine our foreign policies. She will not have to threaten to sell our bonds on the open market, crashing the dollar. The threat will be obvious.

Title: To Cure American Politics, There Must Be a Reformation in Secularism

Date: 2018-03-02T15:07:00.002-05:00

3/2/2018--Last night, in my Philosophy of Law class, I gave a 30 minute talk on the subject of how to cure American politics. The basic idea is that Americans hate and distrust each other because, since the Death of God, secularism has failed to set forth the foundation of a trustworthy universe. If there is no satisfying story of the universe, there cannot be peace in public life. Secularism's default position is the materialist one that the universe is an impersonal complex of forces and that human life has no intrinsic meaning. Not only is this account inadequate to sustain a civilization, it is not persuasive. It is simply assumed. Actually, the universe does not seem to be like that at all. Here is the talk.

Title: Privatizing Government Policy

Date: 2018-03-04T06:44:00.001-05:00

3/4/2018--What is wrong with liberals? We criticize efforts to privatize jails and other public services, we criticize florists who won't service same-sex weddings, but then we cheer when corporations impose policies we like on governments and people. In 2015, the NFL suggested that Atlanta might be skipped if a transgender bill was adopted by the Georgia legislature. The Governor vetoed the bill. Liberals thought that was wonderful. In 2018, when gun control legislation is stymied, liberals applaud Dick's Sporting Goods and Walmart for imposing limits on gun sales. This is a mistake. Business is not your friend. The same corporate interests will next pressure New York State to lower its income tax rate. Businesses will next refuse to sell goods to gay people. Or sell alcohol. There is a good reason to sometimes allow small businesses or even closely held corporations like Hobby Lobby a certain latitude in matters of religious conscience. Religious liberty is an important constitutional value. But in general, business should make money and government should make policy through democratic processes. Gun control and transgender policies don't belong in corporate hands. Democracy is messy and for now is broken. But privatizing policy is not the way to fix politics. This support for business is another example of bad, short term thinking.

Title: Conor Lamb's Apparent Win

Date: 2018-03-14T03:21:00.003-04:00

3/14/2018—Well, a 579 vote lead in a 226,000 vote race is no endorsement, but it looks like Conor Lamb has won the special election in Pennsylvania's 18th District. If so, Lamb will have to run again in 2018 in a District yet to be finally named because of the redistricting fight in the courts. Nevertheless, this is a remarkable achievement. Remember, this race was run under the old GOP gerrymandered map. Under that map, Republicans have won this seat easily since 2012. There was thought to be no way a Democrat could win it. Then came Trump, of course. But, as unpopular as the President may be nationally, he is still favorably viewed by most people in the 18th—a 51% approval rating, which is a lot higher than nationally. In addition, times are good for President Trump right now. Lamb's opponent, Rick Saccone, tied himself to the tax cut, which is also popular right now—the bills have not yet come due, the end of the stock market bull run is not yet clear, the coming inflation has not yet arrived, with the inevitable higher interest rates—and yet Lamb still won. OK. So, good news for Democrats and maybe they retake the House and Senate next year—not all that likely still, but possible. But is this good news for America? A Democratic congress cannot govern with Trump in the White House—that is why a Republican Congress could not govern with Obama in the White House. Such a congress will only heap partisan fire, unless President Trump pivots and the Democrats accept it. Trump is capable of doing this—he has no principles, after all, but self-interest and in that sense is the least partisan person in Washington. He does not care about the Republican Party. The Democrats are as partisan as can be. But here there is another small ray of hope. Conor Lamb is actually not a conservative Democrat—he is not pro-life, like Pennsylvania Senator Bob Casey. But Lamb is moderate and very open as a matter of temperament. He had to be to win this district, of course, but I sense this is the actual Conor Lamb. The Republicans even went after him as soft and easily led by Pelosi—a former marine and prosecutor!—but that just illustrates the point. Lamb is soft in a good sense—he will talk to Republicans. And Lamb's success means fewer primaries against Red State Democrats who are like him. And that means a healthier Democratic Party that would be willing to find common ground with President Trump and Republicans where that is possible—like on gun control and immigration. That would be good news for America. The narrative in the Democratic Party has been to run to the Left to excite the base. After all, the Dems had lost 5 straight special House elections in Republican dominated Districts. So what was the point of running moderates? Conor Lamb changes that narrative for the foreseeable future.

3/18/2018—Ross Douthat is a great columnist. Today he has written an important column in the New York Times—an excerpt from his forthcoming book—entitled Pope Francis Is Beloved. His Papacy Might Be a Disaster (the column, not the book). Douthat is making the argument that although Pope Francis is uniquely able by his actions and person to make Christ real again for millions of people—fallen away Catholics, nonbelievers, other religious people—Francis’ theological and institutional errors are weakening the Church and eventually these errors will be judged to have outweighed his contributions. In other words, to be blunt, the Church would be better without Francis. Douthat admits that he might be fundamentally wrong about this. Indeed, it is his ability to consider that possibility in print that makes him so great. Douthat mistakes the basic thing—the role of the Church. What is that role? It is not to grow in numbers in the pews. It is not to bring certain modes of conduct into the world. It is not to draw a line in the sand defending moral norms. Of course, the Church does all these things. But they are not the Church’s fundamental role. The Church only exists to bring Christ to the world. Therefore, it is almost a logical error to hold that Pope Francis makes Christ real to the world in a way no one else can do, but the Church would still be better off without him. To see this, consider Karl Barth’s famous address to trade unionists in 1911. Now many of these men were socialists and undoubtedly rejected many of the teachings of Christianity. What does Barth invite them to do? He invites them to enter a relationship with Christ. Here is what Barth says: “If you understand the connection between the person of Jesus and your socialist convictions, and if you want to arrange your life so that it corresponds to this connection, then that does not at all mean you have to ‘believe’ or accept this, that, or the other thing. What Jesus has to bring to us are not ideas, but a way of life. ...And as an atheist, a materialist, and a Darwinist, one can be a genuine follower and disciple of Jesus.” It may seem odd that I, a nonbeliever, would be criticizing Douthat on essentially theological grounds. I am able to do this because I know the effect Pope Francis has on me. I am not in the pews. I am not changing my views on things. Yet, Francis reminds me of my love for Jesus in a way no one else can.

Title: Going Martin Luther King, Jr., One Better

Date: 2018-03-23T05:22:00.003-04:00

3/23/2018—Martin Luther King, Jr., used to say, echoing, I believe, Theodore Parker, that the arc of the moral universe is long, but it bends toward justice. Aside from whether this is so, it suggests only the category of history. Slavery was unjust, so it had to go, eventually. As did Jim Crow. But why should this be so? For a Christian like King, the answer was presumably that God oversaw history. But what if we eliminate the word, moral, altogether? The arc of the universe is long, but it bends toward justice. Now our category includes everything, including science. But how is the statement to be understood? Through evolution. As Frans de Waal has shown, human traits of generosity and love are continuous with our nearest animal relations. Humans are different, but also similar. As Tom Berry writes, we are an expression of the universe. The universe through us bends toward justice. The universe made us this way. People say to me that our best traits evolved naturally—they gave early humans an evolutionary advantage. The curious human found the best hunting site. The generous tribe kept the wisdom of the elderly alive. And so forth. They say these things to demean these traits—they are only self-interest. But what this story shows is that the universe is on the side of reason and love. Well, good for the universe. But the same thing is true of purpose—what E.L. Doctorow denotes as living in moral consequence. Humans all have the sense that what we do matters. This also evolved. If it is an illusion, as many argue, then humans are not well adapted to the universe. But why should we assume that? The universe went to a lot of trouble to create a self-conscious creature who felt her actions were intrinsically important—morally significant. Why not give the universe its due and proclaim that the universe chose beings like that. The universe is on the side of our purpose, of meaning.

Title: Is Donald Trump the Antichrist?

Date: 2018-03-28T06:08:00.003-04:00

3/28/2018—I am kidding. My universe does not have Second Comings or the End Times. (I don't mean the universe won't end, just that these are natural processes, not interventions by supernatural powers.) I raise the question in the context of a column by Marc Thiessen and my response by letter in the Post-Gazette (here). Thiessen asked why conservative Christians stick with President Trump. His answer was that Trump has delivered policies, particularly protection of religious liberty, that are crucial to this group. My objection arose when Thiessen put this delivering in terms of the legal philosophy of strict construction of the Constitution. I have a general objection to originalism that its proponents do not practice it when it suits them—Justice Gorsuch's vote in the church playground repaving case being the current example. But Thiessen raises a bigger question. Clearly, Trump is continuing the denigration of Christianity that has been ongoing since Nietzsche's Death of God. Young people see churchgoers supporting the Trump described by Stormy Daniels and they just laugh at Christ. Now, if there were a Satan, wouldn't this be just what he would want? I don't have all the details right but I read that the reference to the antichrist in particular comes from the Letters of John in the New Testament. The relationship between this and the Beast in the Book of Revelation is unclear to me, but apparently has also been identified with an antichrist figure. But one theme stands out in many of these streams of thought. The antichrist deceives humankind. And that would naturally include many churchgoers. It is a bad trade. Whatever policy goals Christians think they are achieving with Trump are all outweighed by associating with this man—a man as far in spirit from Jesus as one could be. The harm to the gospel is the real tragedy of Donald Trump. Christians who support him are deceived.

Title: Passover, Easter and Impossible Renewal

Date: 2018-04-01T08:48:00.001-04:00

4/1/2018—Since I deny the supernatural in principle, I am not much for the miracles of plagues and rising from the tomb. But I am all for impossible renewal, which happens all the time. I just saw Darkest Hour, which represents just such an instance. We need a miracle to renew our public life. But the universe is full of the miracle of emergence—entities and events that surpass the elements that comprise them. Life is just such a miracle of emergence and so is freedom from Egypt and the Resurrection experience. So, happy Easter and Passover to all believers and let all of us live in hope for a better time.

Title: "No Pardon for Trump"

Date: 2018-04-14T07:56:00.000-04:00

4/14/2018—[End of academic year is a hard time to keep up this blog. I apologize to readers waiting for new content.] No, the above phrase is not my sentiment, but it is quite widespread among Democrats. What does that tell us? Paul Krugman has a great column today in the Post-Gazette criticizing both Paul Ryan as a flim-flam man and the false equivalency media that pretends there is equal blame on both political Parties for America's political crisis. I am one of the quivalencers. My point is a shared worldview of nihilism, as readers of this blog know, which really is shared equally. It may even be worse on the political Left. But, leaving that aside, Krugman's last line is chilling in terms of America's future: "It's possible that his successor as speaker will show more backbone than he has — but only if that successor is, well, a Democrat." But, what happens if the next Speaker of the House is a Democrat? Yes, President Trump's excesses will be checked—actually only some of them because of the growth of Presidential power that Democrats helped foster under Barack Obama. Will that mean sane government, however? The answer is no. As the above sentiment shows, the Democrats are obsessed with impeaching or prosecuting Trump. And this is the case when there is actually no credible evidence right now that he has done anything. Certainly, no evidence of anything criminal. In power, I am afraid the Democrats will not sit down with Trump to govern for the best interest of the nation. The Democrats' particular obsessions with Stormy Daniels is completely hypocritical. Basically, who cares what Trump did or did not do? We already knew he was a creep. There should be a democratically-based rule that anything the voters already knew when a politician was elected cannot serve as a basis for removal. Now we are hearing that the payments to her might have violated campaign finance laws. Certainly, no one should violate the law. But talk about a technical, typically Clinton-like law violation! If something similar were used against Hillary, there would be justified outrage. I have to vote Democratic in 2018—the Republican Party, not just Trump, derailed the recovery with deficit-busting tax cuts and undermines trade and the global warming fight—but I don't do so with any real delight. I am voting for more insanity. And that is not false equivalency.

Title: Acts of Legislative Hatred

Date: 2018-04-20T08:50:00.001-04:00

4/20/2018—What do work requirements for Medicaid and a ban on abortion for autistic babies have in common? They both express hatred by the legislature, and many people—for poor people and mothers, respectively. Someone will say that there are people of good will pressing for these measures, which are right now being considered by the Pennsylvania General Assembly. Really? Where are all these able bodied recipients of Medicaid? Overwhelmingly, Medicaid recipients are too old, too young, burdened with young children, beset with mental and physical disabilities—they are not able to work. A work requirement is one more burden for already burdened lives. Spend some time in a food pantry, as my wife did for years. The people who come in—life already crushing them. And our white male wealthy legislators want to add one more hoop to jump through? These are the same politicians who want the government off the backs of the rich. And what if there were one able bodied person too lazy to work? This is medical care, not money. You want that person to die? If this saves any money at all, it will be because someone was too confused to file the necessary paperwork. Then that person can die, too. How about all those autistic babies? I go around parading as pro-life. How can I be against a ban on aborting them? This has nothing to do with the welfare of autistic children. If it did, it would be attached to a tax surcharge that would pay for autistic child services. If it did, it would offer desperate women an opportunity to put their babies up for adoption—and the government would ensure that every such baby would be adopted. It could be done. No. The legislators are scoring political points and expressing their contempt for pregnant women. Thousands of parents have chosen to raise autistic children. It is said by them to be a burdensome, but rewarding act of love. Something beautiful. Now politicians, who have never sacrificed for anyone in their lives, are going to insist that someone else act in this altruistic way? Not them of course or anyone they know. Our legislature is really disgusting.

Title: It's the Stupid Tax Cut

Date: 2018-04-25T05:59:00.003-04:00

4/25/2018—It is almost laughable what financial coverage is like in the US. I took a look at the price of oil in Euros for the past few months and found that there was only a small move higher, from 53.24 on February 1 to 55.64 today. In contrast, in dollars, the price went from \$65.32 to \$73.20. In other words, 4.5% vs 12%. So, most of the increase is the fall of the dollar, not OPEC or any other supply or demand factor. Gas prices would be higher, but not as high as they are now. As with so many other catastrophes, the problem is the tax cut. As the deficit explodes, inflation goes up and the dollar goes down—sort of the same phenomenon. Interest rates rise and the market falls. Eventually, you get a recession and the deficit then explodes even more. I have lost a lot more in the market than I could have gained from the tax cut and even more than that in the loss of stable recovery. Congratulations, Republican Party. It took Obama 8 years to rebuild the US economy from the last Republican President. You have managed to derail the recovery in only 15 months. This catastrophe—for that is what it is since it will be hard to undo—cannot be particularly attributed to President Trump. Yes, he needed a legislative victory, but tax cuts as the answer to every issue predated him. It is the Republican Party anti-government mania that believes paying your bills is tyranny. I actually read somebody from George Mason argue that it is better to have a government spending \$2 trillion and taxing \$1 trillion than a government spending \$4 trillion with a balanced budget. Not if that trillion dollar deficit derails the economy, it's not. Inflation and recession destroy freedom much more than does taxation. But the lunatic individuals-are-everything crowd cannot see structural limits. The talented individual rises above all that. Next time you hear bad news, assume it's the tax cut.

Title: How About a Hand for President Trump?

Date: 2018-05-01T07:04:00.002-04:00

5/1/2018—Nothing but good news on the Korea front. North Korea is promising to do the one thing every American President has tried to get from them—denuclearization. It may still not happen, but we seem closer than I can remember. Why does President Trump not get any credit for this? Well, for one thing, much credit goes to South Korean leader Moon Jae-In, who must be seen as a moving partner. For another, who wants to give credit to a brinkmanship that perhaps almost brought war? Maybe Trump was just lucky. Well, as Napoleon said when he was told a general was just lucky—I would rather have a general who is lucky than good. We should not be shocked. When the US invaded Iraq, Iran reportedly sent word that it was open to a deal. President Bush was too full of himself to make a deal with Iran. Trump did not just threaten—he knew when to back off. It is not that easy. Maybe Obama was too decent—too careful. Maybe a little fear is a good thing when you want people to do something they don't want to do. In any event, a little credit is due. But this is like the Correspondents' Dinner the other night. The point is not how hot the roast was for the Administration. The point is that no liberals of any type—political, correspondents, or anything, came in for any criticism—alleged humor. I admit I don't find Michelle Wolf's humor at all funny. But surely she could have added, for example, that Planned Parenthood can't quite decide whether it wasn't selling baby parts or whether that is okay. Wolf could even have mentioned my theme here--that the press doesn't know what to do when Trump does something right—was it the weather? It is funny to watch—a million explanations of the North Korea success while no one says, gee, maybe he did something right. It would have been even funnier if Wolf had mentioned it.

Title: "They Were Never Going to Let Me Be President"

Date: 2018-05-03T06:06:00.002-04:00

5/3/2018—This quote was the headline of last Sunday's New York Times essay by Amy Chozick that was a teaser for her new book, *Chasing Hillary*.

Aside from the self-congratulatory and perhaps false claim that Chozick had an early feeling Hillary would lose, and the false equivalency argument that it was unethical for the press to cover Clinton's hacked emails, the essay perfectly illustrates the real reason Clinton lost—there was never a reason to vote for her other than she was going to be the first female President and Trump was a menace. Even Clinton did not know why she was running—Chozick writes, "If I had to identify a single unifying force behind Hillary Clinton's candidacy, it was her obvious desire to get the whole thing over with." Chozick also called the campaign a "mechanical slog."

The tragedy of Clinton is that we know in retrospect that she had a task that she simply refused to accept—to defend American values. Not just the values associated with Trump's personal flaws—misogynist, foul-mouthed, immature, unprepared—but the rest of our values: free trade, multi-nationalism, immigration, democracy, the environment. Maybe she would have lost by an even bigger margin, but her campaign would have been honorable. Trump was a menace, but Clinton always figured it was giving in to him to run against what was really wrong with him. To admit that Trump would repeal Obamacare would have meant defending it. To admit that Trump would end the recovery would have admitted that the recovery had been weak under Obama. Etc. It was never a real campaign for her.

I don't blame her for this mistake. If Trump himself wasn't the best argument against voting for him, nothing else was likely to win.

But it was still a mistake. Voting for Clinton was in effect voting for the post-war system. She never said so because although she believed that, she did not want the burden of defending the post-war system. The mood was against that system. In retrospect, that mood was why she lost. She never confronted it.

Clinton's weird belief that racism and misogyny were the only reasons she lost—that was the "they"—meant that she bore no responsibility for convincing anyone of anything. It allowed her the indulgence of labeling Trump supporters—the deplorables—and of not reaching out to religious voters to defend religious exemptions or coal miners to propose carbon capture.

Look, Clinton won the national vote convincingly and narrowly lost the States that gave Trump the Presidency. So, her strategy was a mistake but not crazy. The real problem was that even if she had won, it had all remained personal. Because of the kind of campaign she ran, she could never have reached out to the Republicans—maybe a majority—who did not just disapprove of Trump, but actually believed in the post-war world.

There never was any "they" opposing Clinton. All of Trump's votes were his practically no matter who the Democrats nominated. A lot of Americans wanted to express their opposition to the post-war world. That includes some racism and misogyny because tolerance of other people is part of the values of that world. There is no indication that even today Clinton realizes the deepest mistake of her campaign—failing to defend the world America largely built, now being undone. It was a better world than the one we are heading into now.

Title: Another Mistake by President Trump

Date: 2018-05-11T02:02:00.002-04:00

5/11/2018--Readers of this blog are aware of my opinion of the disastrous tax cut that is increasing the national debt, raising oil prices and unsettling the market. The tax cut is costing me a lot of money and will cost me more money in the future. The tax cut was a mistake.

Now we come to a new mistake. President Trump is taking the US out of the Iranian nuclear agreement. He can do this because the agreement was not a treaty and whatever US international commitments this breaks are within the President's authority to break. Basically, that kind of international law is not binding.

The objections to the agreement were twofold--and I say that because the Iranians were by all accounts not violating the agreement. Iran had stopped all development of a nuclear weapon, as promised. So, no one can claim that the US is reneging because Iran violated the terms of the agreement.

The first reason is that in some number of years--ten or fifteen depending on how one does the numbers--Iran would no longer be bound not to pursue a nuclear weapon.

This reason is asinine. After all, if there is no agreement, Iran is free to pursue a weapon now. Yes, we can attack Iran to prevent that, but we could do that in ten years also.

The second reason, which I hope is the actual motivation for Netanyahu, since he is knowledgeable about the world, is that the agreement allows Iran to pursue all the other bad behavior that Iran is currently pursuing--from ballistic missiles to proxy war fighting in Syria that directly threatens Israel. Plus, by legitimating the regime and giving the regime access to more funds in various ways, the agreement actually enhances Iran's capacity to pursue these terrible aims.

In other words, all the agreement ever did was prevent Iran from obtaining a bomb. The agreement did not go to the heart of the problem of Iran's conduct and aims.

This criticism is descriptively accurate. The Iranian agreement was premised on the view that any other bad behavior by Iran was secondary and would be made far more dangerous if, in addition to acting this way, Iran had a bomb. The agreement also assumed that progress toward an Iranian bomb would lead to a military confrontation between Iran and some combination of Israel, the US and Saudi Arabia. That military confrontation was judged to be more dangerous than the conduct Iran is currently pursuing, which was judged not to be likely to lead to all-out war.

This criticism is accurate but misguided. The people who brought us this deal were wiser than those opposing it. Their calculations were correct.

The best case scenario now would be for the Europeans and China to create banking options that render US sanctions irrelevant in order to give Iran an incentive to continue its adherence to the agreement despite the US reneging on the deal. That alternative would have the added

advantage to the world of weakening Donald Trump's capacity to destabilize things. I feel bad hoping for an alternative that will harm my country, but peace is better than war. If this happens, however, the US will be crippling itself economically.

Title: "The policy may be debatable, but the law is clear"

Date: 2018-05-24T10:50:00.000-04:00

5/24/2018—More legal positivism from Justice Neil Gorsuch: the law is the law. This quote is from Epic Systems Corp v Lewis on May 21, in which the Supreme Court, 5-4, allowed companies to require employees to waive their right to file class actions to enforce federal law in preference to individual arbitration. In each case, the employee was trying to enforce minimum wage law. But in the Lutheran Church case the law was clear that States do not have to give money to churches, but the policy overturned the law. This is all such hypocrisy. But Epic is worse than just a case in which big business wins again. (small business is largely unaffected because class actions usually require a lot of plaintiffs). The Court distinguishes between worker official collective action, as in unionization, and the informal collective action of a workforce trying to force an employer to pay minimum wage. What is missing is any sense of human solidarity. There is a certain kind of legal mind that cannot see any entities between corporations and unions, on the one hand, and the individual, on the other. To be fair, I guess I should add families. But the point is that human beings are not individuals. Our only state is relationship. The Court reaches its conclusion by assuming that collective action is the exception that needs legal recognition to be enforceable. The reality of human life, which the Justices should have seen, is that the human being as an individual is the exception and there needs to be a strong presumption against limiting people to that status. The people who should be most sensitive to the difference are religious people. That should include Justice Gorsuch. Where is the individual in the Torah? In the New Testament? In the Koran? The primary actor is the collective—the people Israel, the church, the umma. Nor can one turn to eastern religion, which tends to regard the individual self as illusion. Epic is anti-religion. And people don't even know it.

6/5/2018—Two utterly unsurprising items in the news from yesterday. First, the President claims he can pardon himself. Here is the language of the Pardon Clause—"he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment." Not only is there no limit on the power, it is worded as if to remind us that the remedy for abuse is impeachment and removal. So, yes, he can pardon himself and then Congress should get rid of him. The President is liable for state crimes, so he would have to shoot Comey in DC, in Giuliani's weird hypothetical. Second, the Supreme Court ruled in favor of the baker. As I told my Con Law class, Justice Gorsuch was appointed to protect religious believers and that is what he is going to do, which means a majority to do that. The theme of hostility to religion, or a non-neutral application of the law is interesting. The baker was cited for refusing to make a generalized wedding cake. Three other bakers were not cited for refusing to make a cake with a gay-bashing message. Although decided under the free exercise principle of a non-neutral law, I believe the case would go the same way if there were any other basis to refuse to make a cake. In other words, the law recognizes free expression rights in bakers making cakes. So, how can you distinguish any opposition by any other baker? As for the anti-religion comments, these are the same comments a lot of people now make about religion in the context of religious exemptions—they are routinely called a right to discriminate, rather than a right of conscience. So, the Court still has respect for religion. But a lot of Americans do not. Religious believers should remember that they are not practicing live and let live here. There are plenty of people who would love to reverse the Obergefell same-sex marriage case if they could. Time for a grand bargain?

Title: The Nakba

Date: 2018-06-11T05:08:00.001-04:00

6/11/2018—I attended a Bat Mitzvah on Saturday. It was lovely. The Torah portion was from the Book of Numbers—the story of the 12 spies sent into the promised land to scout it out. Ten came back and said the land was too fortified. But two, Joshua and Caleb, said the Children of Israel would conquer the land with the help of God. Because the people agreed with the ten, God determines the generation of slaves is not ready for freedom. Therefore, there must be forty years of wandering in the desert, though Joshua and Caleb are rewarded for their faith.

The Bat Mitzvah concluded from this story that we must face our fears and persevere.

As I said, a beautiful event.

But I was filled with sadness. The story of the spies is the story of genocide. The only way to possess the land where people are already living is to kill every man, woman and child. God is not telling the Children of Israel to conquer people living there as a new governing elite, but to start afresh in a new land.

As you would expect, in the Old Testament, having begun by conquest, murder and displacement, there is never peace in the land. There are constant wars until the Greeks come and subdue everybody—followed by the Romans.

I don't mean this as a criticism of the people in the story. They had just left Egypt and slavery. They were returning to their ancestral lands. But, there were now people living there. It would have taken a real miracle for the story to end peacefully.

Now, why wasn't the story told this way in the very liberal congregation? If it had not been for 1948, it might have been. But we now know that essentially the same thing happened then—what the Palestinians call the Nakba—the catastrophe.

Americans have no idea of this history. They imagine the Palestinians chose to leave. Many did. Most were forced out. People living in Gaza tell stories of their villages only a short distance away. But they are not allowed to return.

Of course the Nakba is more than just forcible displacement. Even if all of the Palestinians had stayed, they had lost much of their land.

The parallels are just too obvious and painful. Again, it is impossible to blame the Jews who were entering the land. They had just survived the Holocaust. But, by and large, they did not come to share the land but to start afresh. The UN mini-state was the result. Those lines were erased in a war the Jewish occupants did not start.

Judaism and Islam each has its own personal God. Each religion tells of all these injustices in ways that justify its people. There is no path to peace without acknowledging all these wrongs. Sometimes, history puts innocent people in the way of each other. It is not clear how justice will eventually come, but it must.

None of us is innocent. The US began in the very same way. There were people here. They were displaced and killed. They are not getting their lands back either.

But if perfect justice is unattainable, reconciliation is not. It will probably require the end of the personal God of justification, however, to get to reconciliation. And that will take a long time.

Title: My Response to Ross Douthat Column on Free Speech Saving Us

Date: 2018-06-12T05:47:00.000-04:00

6/12/2018--check out my response to last week's Douthat column, Why Won't Free Speech Save Us?, in Starting Points, the online magazine of the Kinder Institute on Constitutional Democracy at the University of Missouri.

Title: What is Wrong?

Date: 2018-06-15T04:33:00.000-04:00

6/15/2018—I am working a book review essay for the Tulsa Law Review concerning three books that ask the question, in one way or another, what is wrong?

People are still shocked that Donald Trump could be President—including some of the people who voted for him. How could this wreck of a human being have ascended so high in our society?

But it is deeper than that. Everybody believes that her opponents have succumbed to new lows in public life. I ask, how could Republicans not see that President Trump went to Korea, gave away the store and came back with nothing? If Obama had done it, they would be screaming for his scalp.

But Republicans say, if Obama had done this, Democrats would be applauding. How could they be so hypocritical? And maybe they're right.

So, let's say a lot of us are angry and in despair. Why is that?

Along comes Michael Ignatieff in the New York Review of Books, reviewing three books on the relationship between liberal, secular politics—think the separation of church and state—and religion. Ignatieff believes that religion will not go away, despite liberal anticipation of secularization. And he thinks he knows why. He writes:

Finally, a cardinal fact about liberal society is that it disappoints. It offers no radiant tomorrows, no redemption, no salvation. The most that the social democratic variants of liberalism have promised is a welfare state that seeks the slow reduction of unmerited suffering, the gradual diminution of injustice, and the increase of prosperity and individual flourishing. These public goals are what Western liberalism at its best has had to offer since Franklin Roosevelt, but they leave many people yearning for deeper collective belonging and stronger ties to tradition and community. This dissatisfaction leaves a void, which is constantly being filled by nonliberal doctrines.

Notice two things. First, Ignatieff has completely given up the effort to combine liberal values with flourishing human life. Liberal values, here secular values, just must be flat and dissatisfying. That is what immanence entails.

But, second, notice that he believes religion can counter this. Here Ignatieff is just wrong. If your society embraces a flat secular universe, it will infect religious life also. Tell me, just where in America does religion deliver “radiant tomorrows?” Not in any mosque, church or synagogue I have recently visited.

What Ignatieff does not see is that this is not necessary. He is the biographer of Isaiah Berlin and he believes that the whole point of liberalism is to narrow the reach of public life. There are no universal values. There are no great ends. The fear of Stalinism has now led to a new disaster of public life—empty and purposeless human life. Ignatieff is the human face of nihilism.

This is not necessary or inevitable. Ignatieff himself is trying to pick up the pieces in a new book entitled *Ordinary Virtues*. In it, he says that there are no universal values, but there are “tolerance, forgiveness, trust, and resilience.”

Not bad, but not enough. With that starting point, though, one could begin to construct a beautiful secularism. But not if beauty itself is by definition out of reach.

6/18/2018--What do we do when we really smart people are blind? The question arises out of a review in the New York Review of Books by the novelist Norman Rush of a book of essays by the public intellectual, Teju Cole. According to Rush, Cole's essays concern "an array of thematic problems routinely confounding to the educated secular leftcentric urban readerships of today. Here are two examples among the many that Cole discusses. One: In a world that is post-credal, post-religion, and post-socialism, in what should humanism be grounded? Two: When liberal empires engage in overseas criminality, what are the responsibilities of that empire's domestic beneficiaries—the lucky, the talented, the wealthy?" Cole reports that he was very excited when Barack Obama was elected President. Unlike George W. Bush, Obama was a literate, educated, thoughtful man. Cole writes, "We had, once again, a reader in chief." But then over time there was the realization that this man, Barack Obama, would kill, especially in drone strikes. Maybe several hundred, maybe three thousand, including women, children and innocent young men. Cole is devastated: "How on earth did this happen to the reader in chief? What became of literature's vaunted power to inspire empathy?" Well I can tell you exactly what happened—Obama lives in a post-credal age. He is too smart to be taken in by simplistic Church nonsense about the sanctity of human life. Who taught him all this—Teju Cole and people like him. We don't live in a post-credal age. Cole knows that the drone hits are criminal. They are wrong. So, let's not blather about post-anything. Let's try to revivify morality. Simplistic, old fashioned morality. Otherwise, we are playing into the hands of power.

Title: Best Paul Krugman Column Ever

Date: 2018-06-23T11:18:00.000-04:00

6/23/2018--In Return of the Blood Libel, Paul Krugman really does zero in on the anti-immigrant hysteria. It has nothing to do with immigrants. In that way, it is simply a projection against the other, just as classic anti-semitism was. Why do people feel this way? Krugman admits he does not know. But the frenzy against immigrants today, legal and undocumented, is not about genuine policy differences. It is not about whether immigration lowers average wages. It is not about enforcing our laws. Those are matters for debate. But the idea that America is under some threat is crazy. Immigrants don't commit crime much--places with large numbers of immigrants have lower crime rates--they don't us up public resources and they by and large want the American dream. That does not mean that people here in violation of law should be allowed to stay, just that there is no reason to hate or fear them. Krugman's point--immigrants are the new Jews.

Title: Liberal Inconsistency and Arrogance

Date: 2018-06-26T06:35:00.003-04:00

6/26/2018—Let me get this straight. Liberals raise a legitimate question about when it is appropriate for a religious believer to deny commercial services to someone based on moral objections—the famous cake maker and the same sex wedding, for example, or the really horrible case of the woman about to miscarry—and then celebrate the denial of service to White House press secretary, Sarah Huckabee Sanders, at the Red Hen restaurant in Lexington, Virginia? What a double standard. Apparently this is not illegal in Virginia. Too bad. I can hardly wait for Chick-fil-A to start asking women customers if they have had an abortion—that would not be illegal either in most States. I feel the same way about yelling at Republican office holders at movie theaters. Apparently that is just fine with some Democrats, too. I guess shooting people is next. Others will object to all this because it is not civil. That is not my objection. I guess it would have been fine to throw Nazis out of one's establishment before they took power. If you think President Trump is Hitler, why not? To me this is all part of the liberal refusal to win elections. Instead of stupid actions like these, certain to aid Republican efforts to maintain the House and Senate, go register voters or go door to door or just talk to anyone you can find who voted for President Trump and try to change their minds—especially in a swing district. I don't see all these outraged liberals actually trying to convince anyone to vote against these people. We don't need resistance. We don't need impeachment. All we need is to win elections to get rid of these people. Then, when you see a Republican you don't like, you can hand them a slip of paper that states—"Another Democrat has been registered to vote in your honor. Enjoy your misrule while you can."

Title: Can We Agree that not Everything Unions Do is Speech

Date: 2018-07-01T11:11:00.000-04:00

7/1/2018--In *Janus v AFSCME*, the US Supreme Court struck down the agency fee for public sector unions. The agency fee is that portion of union dues that someone who does not wish to join a union must nevertheless pay. The agency fee deducts any political activity engaged in by the union. The rest of the fee--the agency fee--is supposed to be that portion of union dues that covers the provision of services to workers. Can we agree that not everything a union does is speech? So, for example, let's say a union is obligated to represent a worker who is fired if the worker files a grievance over the firing. I hope we can all agree that this representation is not speech, even though speech will be employed. Therefore, it cannot violate the first amendment to force a worker to pay for this service--even if the worker opposes this service. A person cannot be forced to pay for speech with which she disagrees, but is often forced to pay for services that he does not wish to have. [think of the government forcing you to buy auto insurance when you would rather self-insure.] Now take the case of collective bargaining. The union argues that wages should go up. But the worker does not believe that wages should go up because he opposes increases in government spending. This still seems to me like a service, rather than like speech. The government here occupies two roles--government sovereign and employer. The union may not argue that a law should be changed by the use of the agency fee, but only that workers should be treated in a certain way. I believe in Justice Alito's anti-union enthusiasm, he confused the question of whether there should be collective bargaining--advocacy about that would be speech--with the question of what wages should be in a particular job--not speech for worker representation.

Title: In Christ There Is Neither Democrat nor Republican

Date: 2018-07-04T08:49:00.001-04:00

7/4/2018--We wake up this Fourth of July in very grave danger to our democracy. If you don't believe me, read *How Democracies Die*, by Steven Levitsky & Daniel Ziblatt, which describes the process by which many other democracies have failed. Among the danger signs are demonizing your opponents, changing the rules, pushing every advantage. The soft touch of mutual toleration and forbearance disappear. America is well on its way. Whose fault is this? Why does that matter now? The question is, how do we stop the momentum? Maybe we don't. History does not have a lot of examples of countries that proceeded down this path and stopped short. But my friend and mentor, Robert Taylor reminded me the other day of Paul's saying that brought inclusion to the early church communities. In Christ there is neither Jew nor gentile, male nor female, slave nor free. Whether you believe or not, it should be obvious what is meant. Not that Jesus is neutral, but that your divisions are not his. Humanity is one. When I heard this, I thought, one thing is still missing. Right now, this kind of thinking would lead each side to think, god forgives him and loves him despite his sin--or in secular terms, I am right but he is human also. But that misses Paul's point. Robert once illustrated Paul's point for me. You are not Hitler, he said. However, here is Hitler and here is you--holding his thumb and forefinger slightly apart. But there is God--pointing far across the room. Or, as Jesus himself said, Why do you call me good? Only God is good. So, the point of neither D nor R is that none of us is justified. No one is good. America will not be healed until each of us says, how did I contribute to the catastrophe? Where is that voice in America? And, by the way, that question cannot be answered, I did not fight hard enough for justice--meaning against my enemies. No, the question is, how did I help lead America to mutual hatred? How did I fill my heart with hatred and provoke others to the same? How did I fail to listen to those people I disagree with? How did I take their concerns flippantly? Then there might be hope.

Title: Needed: A Nonpartisan Pro-Democracy Caucus Among Law Professors

Date: 2018-07-10T20:49:00.000-04:00

7/10/2018--Below is a proposal I sent to a law review for inclusion in an issue on election law--too broad for their tastes. But, unless democratic norms are seen as constitutionally protected, there may not be any future election law. Ironically, once President Trump's nominee is confirmed, conservatives may be open to a new direction.

The Role of Law in Preventing the Death of American Democracy

American democracy is in serious crisis. The recent book *How Democracies Die*, by Steven Levitsky and Daniel Ziblatt, chillingly illustrates how close America's experiences are to those of other nations that have actually lost their democracies. It can happen here. Unless something is done to prevent it, it will happen here.

Law cannot address all of the threats to democratic norms, many of which involve the violation of soft conventions, such as not treating political rivals as illegitimate, that do not rise to the level of illegality. Law is already responding to the current crisis where previously established constitutional norms are threatened, such as racial equality, freedom of speech and freedom of the press. What is lacking is the formal adoption of the norm of democratic self-government as a general constitutional principle. If this were done, the response by the courts to claims of partisan gerrymandering, forms of vote suppression and manipulations of the Electoral College would be much more aggressive and effective than they have been to this point.

The reasons that law has been largely ineffective in addressing the crisis are, first, the natural tendency to assume that everything is "politics as usual," rather than the potential death throes of our system. Second, law professors and judges currently participate in the hyperpartisanship that is threatening public life. Third, disputes over substantive constitutional claims, such as abortion and same-sex marriage, and differences over interpretive methodologies, have overshadowed the much more fundamental threat to democracy that we are now facing. Finally, the adoption of any norm in constitutional law is fraught today because of value relativism and the fear of judicial activism.

These barriers to the recognition of the norm of democratic self-government can be overcome. Recognition of the fragility of our democracy is growing. In light of that growing recognition, it is conceivable that American law professors, who still share a commitment to constitutional democracy, can reach a bipartisan consensus over the need to protect self-government. Recognition of the norm of democratic self-government does not require surrender of substantive or methodological disagreements. There will still be controversy over abortion cases like *Roe v. Wade* and *Obergefell v. Hodges* and there will still be debate over originalism versus the living constitution. The norm of democratic self-government transcends these differences. Nor does the adoption of the norm of democratic self-government require establishing substantive and objective moral and political standards. This latter point was demonstrated beyond dispute years ago, in John Hart Ely's classic work, *Democracy and Distrust*.

Adoption of the norm of democratic self-government would mean that any attempt to permanently embed partisan advantage so as to impede the ability of the people to express their decisions on matters of policy or election would be presumptively unconstitutional. That would include gerrymanders, voter ID laws, voter registration, election rules, voting roll purges and any national effort to manipulate the Electoral College through selective State abolition of winner-take-all.

By itself, law cannot prevent the death of American democracy. But, law does have a potential role to play in the attempt to save it.

Title: Disgraceful Democratic Party Defense of Peter Strzok

Date: 2018-07-14T10:30:00.001-04:00

7/14/2018--To paraphrase a recent book about politics--this is how the Left loses its mind: an FBI agent tasked with investigating a politically sensitive matter relating to a Democratic Party candidate for President, and later tasked with investigating allegations that the Republican Party candidate colluded with foreign powers to fix the election, writes in a late night email to a fellow agent, also so tasked, that the Republican has to be stopped. This is what Democrats today are defending. Just reverse the polarity and have an FBI agent writing about how Secretary Clinton has to be stopped. Would that be fine? We have to stop acting in a partisan fashion and not defend the indefensible. This goes for Republicans practicing voter suppression and it goes for Democrats defending Peter Strzok. Just to repeat the obvious. FBI agents have to be above reproach. They have to try to have no political favorites. Failing that, they can at least keep their mouths shut. Shut to everybody. How would you like to find out that a racist Secret Service agent sent an email saying, I would hate to have to take a bullet for a black President. Maybe there is a Secret Service agent who felt that way about President Obama. At least you didn't read an email about it. It would be so refreshing to hear a single Democrat with integrity say, the emails didn't amount to a hill of beans, Trump is a bum, but you, sir, are a disgrace to the FBI.

Title: He's Not a Russian Agent, Just Unfit to be President

Date: 2018-07-17T03:47:00.001-04:00

7/17/2018—It is hard to react to yesterday's press conference between President Trump and Vladimir Putin, President of Russia. Trump raises questions about American intelligence agency assessments because a dictator who assassinates people in foreign countries says so. I did not watch the news conference but President Trump did not appear to raise the issue of the seizure of Crimea, the invasion of Ukraine or the shooting down of Malaysia Airlines Flight 17 in 2014, apparently with Russian weapons used by local military forces. Of course the world already knew that the United States has been disgraced by this President, but that press conference was just too much. And they thought that President Obama was weak. Where is the Federalist Society? Where is Mr. Leo, who prepared the list of judicial candidates for President Trump? Trump is President Washington's worst nightmare—a man who admires murderous dictators. As readers of this blog know, I fear the breakdown of democratic norms in America. But you have to sympathize with anyone who feels this man should never have been President. No, he's not a Russian agent, just unfit to be President.

Title: Israel Says It Cannot Be Both Jewish and Democratic

Date: 2018-07-22T10:17:00.001-04:00

7/22/2018--I always said I would not be a critic of Israel since I don't live in a country surrounded by enemies who want to destroy me. But I am not criticizing Israel here, just pointing out what the Israeli government has just enacted. The government adopted a statute providing that Israel is the national state of the Jewish people. For this reason, Arabic was downgraded from an official language. Obviously, any Israeli citizen who is not Jewish is now a second class citizen, as Arab members of the Knesset argued in their opposition to the bill. There always was a tension in trying to be both democratic and Jewish. In a democratic state, if a new group gains a majority, they just take over the government. But, if a state is supposed to be dedicated to a particular religious group, what happens if someone else gains a demographic majority? If Muslims and Christians gained a majority in Israel, would they not be tempted to change the nature of the Jewish state? But how can that be prevented if the state is democratic? For now the announcement is largely symbolic. But if Arabs threaten to become the majority, further steps will have to be taken to limit their voting rights. It's not evil. It's just the tension between a religious state and a democratic one. The Israeli government is right--you can't be both.

Title: But Why Do Immigrants Vote Democratic?

Date: 2018-07-24T07:47:00.002-04:00

7/24/2018—Democrats and independents don't understand all the talk about illegal voting. Because there really isn't any illegal voting. Various studies have shown this. But that understanding is not what is actually being talked about. In an April 5, 2018 article in the New York Review, Adam Hochschild reported on the following exchange he had at a California gun show. "At one table a man is selling black T-shirts that show a map of California in red, with a gold star and hammer and sickle. Which means? 'This state's gone Communist. And I hate to say it, but it was Reagan that gave it to them. The 1986 amnesty program [which granted legal status to some 2.7 million undocumented immigrants].'" This means that 2.7 million votes in California, and now the children of those admittees, are not legitimate votes. Multiply that by the vote in other States and you get an idea of what Republicans are thinking about when they say Trump really won the national vote—the vote of the people who ought to have been allowed to vote in the first place because they did not come here illegally. This is not pure racism—it actually has nothing to do with African-Americans, for example. It is nativism. The conservative columnist Cal Thomas wrote today in the PG that the whole reason that Democrats favor immigration is that they want these votes. Aside from the fact that all of this is deplorable anti-democratic thinking, it does raise the question Republicans don't want to ask—why do immigrants vote Democratic? A few years ago, President George W. Bush appeared to be ready to take that question on and contest that political narrative. For all the talk about crime, immigrants, documented and otherwise, are more law abiding than are Americans who have been here longer. As Bush realized, but Republicans now don't want to think about, they are a natural Republican Party constituency. They work hard. Many own small businesses. They are religious. In fact, undoubtedly, they are more likely to be pro-life than are native born Americans. They didn't come here for the privilege of paying high taxes. There are precedents. Cuban immigrants voted Republican for years. The main reason that immigrants vote Democratic seems to me to be that Republicans obviously don't like immigrants. That seems pretty stupid on the part of Republicans. As a Democrat, I'm glad they are not waking up. But as an American it would be better if they would.

Title: Special Prosecutors Are a Menace

Date: 2018-07-27T04:02:00.001-04:00

7/27/2018—I am now tweeting, like President Trump. It is a silly way to do business, but apparently necessary today. My handle is @BLedewitz. I tweeted today about a story in the New York Times that Robert Mueller is now investigating Trump's tweets for obstruction of justice. Think about it—obstructing an investigation that has found nothing. This is not the same as paying off a witness to disappear. That's obstruction. A President urging an investigation to wrap up when he has legal authority to end it is hardly obstruction. This is Ken Starr syndrome. Here is the Wikipedia summary, which I believe is accurate: "Starr was initially appointed to investigate the suicide death of deputy White House counsel Vince Foster and the Whitewater real estate investments of Bill Clinton. The three-judge panel charged with administering the Independent Counsel Act later expanded the inquiry into numerous areas including suspected perjury about sexual activity that Bill Clinton had with Monica Lewinsky." In other words, there was nothing to the original charges, so we investigate until there is. There was no collusion with Russia. There didn't have to be. Putin wanted Trump. First as a disruption. Then as President. What enemy of America would not have wanted Trump's victory? So, no collusion necessary. No collusion happened. End of investigation. Mueller go home.

Title: The Truth-Justice-Democracy Initiative

Date: 2018-07-28T07:13:00.002-04:00

7/28/2018—Readers of this blog know of my concern for the future of American public life. We can't rule out anything, even a military coup or cancelled elections.

You can blame certain people for our current state, if you want, but I keep reminding people that Americans have been polarized and divided since the election of Bill Clinton, over twenty-five years ago. Not a single Republican in Congress voted for Clinton's first budget. The deadlock was occurring then. Don't blame President Trump or Hillary Clinton.

The problem is not this or that policy difference. Americans distrust and hate each other. The rabbis asked, how did Jerusalem, the holy city, fall to the Romans? They answered, baseless hatred. The defenders of the city were so busy fighting each other that they could not join together against their common enemy. That is America today.

What do we do? Calls for civility are irrelevant. We must change our thinking.

To paraphrase St. Paul, and now abides, truth, justice and democracy.

Everything starts with truth. We are told we have entered a post-truth era, even that there is no possibility of a fair representation of history.

These claims are themselves false. They are really just bad habits of mind. And they are self-contradictory. So, we must begin by taking back truth.

I am beginning that effort with a billboard in Erie County in August. Look for more details and the August 23 announcement. Hint—tax cuts don't pay for themselves.

Next is justice. Martin Luther King, Jr. taught that "the arc of the moral universe is long, but it bends toward justice." Because he believed that, he did not hate his enemies. His view was formed by Christianity, but is available to all of us. We do not believe this, or we are not sure what we believe, and that is why we hate each other.

So, look for a kickstarter campaign in which I raise money for a demonstration of the Bends Toward Justice Podcast Series. I plan to travel the country asking all sorts of people whether they agree with Dr. King and then to archive the podcasts. The goal is to reopen the question of moral realism and the shape of history. Does history bend toward justice? Does the universe? If so, why and how? A new view of religion may be born here.

Finally, democracy. Read the book, *How Democracies Die*, by Steven Levitsky and Daniel Ziblatt. The book tells the story of how various democracies have died and how we are moving in that direction. We must put aside all other differences and prevent this.

As law professors, our best contribution would be the creation of a bipartisan caucus to convince the Supreme Court—especially the coming new conservative majority—that the norm of democracy is constitutionally protected in ways the Justices have not yet announced. Specifically, the intent to frustrate the will of the people must be treated with the same opposition as the intent to racially discriminate.

So, gerrymanders, voter ID laws and any manipulation of the Electoral College must be seen as presumptively unconstitutional.

Can law professors come together in a pro-democracy caucus without regard to Party when we have been as partisan as anyone, if not more so? Why not, if the alternative is the possible destruction of constitutional government of any sort? So far, not much success. But the effort is young.

There you have it. Overall, one small effort to address the emergency.

Title: The Media as Enemy of the People

Date: 2018-08-03T17:38:00.000-04:00

8/3/2018--I believe even Donald Trump does not understand the harm he is doing by telling his supporters that the press publishes fake news and is the enemy of the people. Cal Thomas wrote a critical column about the press, but he ably described the meeting this week with the the publisher of The New York Times, A.G. Sulzberger. "[Sulzberger] recently met with the president and told him his comments were encouraging dictators to persecute and suppress independent media coverage of their regimes and worse, putting American journalists at risk of physical harm. Sulzberger said the Times was forced to hire armed guards to protect employees." One day, a future Donald Trump will close newspapers he does not agree with and there won't be any public support to defend a free press. It is certainly the case that the media is biased. For every Fox, there are numerous liberally oriented outlets. But, so what? There are lots of conservative leaning outlets also, like almost all of talk radio. The real point is that no one made President Trump run for office. He should stop whining. If a lot of the media is biased against him, it is a lot better than not enough critical media. No country ever went downhill because the press bashed its leaders. The real criticism is not bias against the President but that there was not enough criticism of President Obama--I'm just not sure that was true. There sure seemed to be all kinds of criticism of him when he was President, including foreign leaders speaking on the floor of the Congress. The pass that Obama supposedly got might just be a fantasy.

Title: What Can We Learn From the Failure of Four Secular Democracies?

Date: 2018-08-04T04:36:00.002-04:00

8/4/2018—In one way or another, four countries may be said to represent the failure of the secular democracy project: Turkey, India, Israel and the United States. The story of each failure is different, but there is a pattern. In each, a left-leaning secular elite, generally hostile to religion, tries to create a State without religion in the public square. Some form of separation of church and state. In each, over time, a pretty religious voter majority rebels and brings to power a religious, nationalist government. In each, democratic forms are kept, more or less, but minority rights are definitely threatened.

Of course, each county is also quite different. Recep Erdogan in Turkey is pretty religious and the struggle is pretty directly religion versus secularism. Narendra Modi is pretty religious, but the struggle is also highly nationalistic with Hindus versus Muslims and others. Benjamin Netanyahu does not appear to be religious at all and the struggle is definitely nationalistic, although joined by religious fervor, as in India. In the US, President Trump is as secular as can be, personally, but is highly identified with religious believers. The struggle, though, has no religious content per se, except in allowing a very small number of religious people to practice controversial forms of discrimination.

What can we learn from the failure of the secular democratic project in these four countries? Michael Ignatieff, the President of Central European University, has suggested that liberal society will always disappoint. His article appeared in the New York Review of Books in June 2018. I wrote a letter to the editor that was not published, which I reproduce below. I should add that Ignatieff is so gracious that he wrote a short response to me, which I will not reproduce here only because he did not suggest it was for public consumption. Basically he suggested that my mistake is in the use of the word “shared.” In liberal society, people cannot share fundamental commitments of meaning. That is the point of liberal society.

I should also add that I have always been skeptical and hostile to the secular democratic project. I wrote American Religious Democracy as a rejoinder back in 2007. I believe democracy will only succeed in building societies of freedom and flourishing human life when the secular/religious split is overcome and religion is acknowledged as the positive and necessary force that it is. Not everyone is going to be religious, but everyone is going to be human, which entails some kind of depth experience.

To the Editor:

Michael Ignatieff’s dispiriting review of three books about the relationship between liberal, secular society and religion was unduly pessimistic because Ignatieff’s conception of secular society is truncated and static. On the one hand, there is religion—a rich, but ultimately irrational, communal search for meaning, belonging and the purpose of human life. On the other, there is secular society—an arid collectivity that tries, increasingly unsuccessfully, to deliver a welfare state, equality and individualism.

Ignatieff then concludes that religion will not disappear and that liberal society will inevitably disappoint. Really? With a stacked deck like that, of course liberal society will disappoint. But, then, so will religion, which, according to Ignatieff cannot deliver knowledge about the nature of reality.

Maybe the accommodation of religion and secularism has to be deeper than Ignatieff's example of whether a Sikh has to wear a helmet when riding a motorcycle. Maybe the accommodation should be a shared search for meaning among religious and nonreligious persons of good faith.

Secularism rejects supernatural accounts of reality and holds that scientific laws are invariant. But almost all modern religions accept scientific accounts of the world and do not routinely invoke miracle to explain natural phenomena. There is much more common ground here than secularists are willing to admit.

The important issue between secularism and religion is the status of what Tim Crane calls, in one of the books Ignatieff reviewed, the religious impulse—the human hunger for something transcending the world of ordinary experience.

Secular society will continue to disappoint until it comes to terms with this impulse and its meaning.

Crane, himself an atheist, does not believe that there is any transcendent reality. But, how can anyone listen to Mozart's music or look at the night sky and deny transcendent reality? For that matter, how can anyone listen to the words of Martin Luther King Jr., and deny transcendent reality? The arc of the moral universe bending toward justice is definitely something transcending the world of ordinary experience.

In their unthinking zeal to defeat religion, secularists have surrendered everything that gives human life purpose and meaning. But that surrender is not required by denial of the supernatural. Liberal, secular society does not have to be arid. It can be as rich with meaning as any formal religious community. And when secularism realizes that, its opposition to religion will be seen as unnecessary and will recede. On that day, all of us, religious and nonreligious, will just be spiritual seekers again. On that day, it will be possible for politics to be again a shared public search for the deepest truths of human experience.

Title: The Lynne Kelly Quote

Date: 2018-08-10T05:34:00.002-04:00

8/10/2018—A good day for the meaningful universe. I saw a retweet by Michael Shermer of the Lynne Kelly quote: “Some believers accuse skeptics of having nothing left but a dull, cold, scientific world. I am left with only art, music, literature, theatre, the magnificence of nature, mathematics, the human spirit, sex, the cosmos, friendship, history, science, imagination, dreams, oceans, mountains, love, and the wonder of birth. That’ll do for me.” ■ Lynne Kelly Then Jonah Goldberg, the conservative thinker, publishes a column in which he argues that political hatred is a substitute for religion—a re-enchantment creed, following Ernest Gellner. Presumably this description includes people who go to church but still hate their enemies. The problem at base is the meaningless universe. A question for me, however, is the status of these wonderful things that Kelly points to and that Goldberg celebrates. Are they real or just hobbies that humans have? Are there re-enchantment creeds that are true even though not supernatural? So, there is art. Is it all beautiful? Is nature actually magnificent or does it just appear that way to a certain privileged white perspective that can afford such contemplation? And if the good, the true and the beautiful—and justice—are in fact real (in some sense)—then why attack religion? Why play into the religion/non-religion dichotomy? Why not celebrate all the traditions that pay homage to the real? That would be a hallowed secularism.

Title: Decent Republicans, Especially Law Professors, Have Got to Stop Voter Suppression

Date: 2018-08-12T14:46:00.002-04:00

8/12/2018—I have called and will continue to call on my fellow Democrats to stop making up grounds for impeaching President Trump. And I will do it publicly when the time comes. So I believe I am in a fair position to say that the time has come for decent Republicans, especially law professors, to stop making excuses and stop voter suppression their Party is practicing. My friends know it is happening and they know it ought to be illegal. But they point out that White Democrats invented suppression of African-American voters and in fact did far worse than Republicans are doing today. It's true, but is that an excuse—that 50 years ago Democrats murdered African-Americans for trying to vote and we don't go that far? The Justices should have stopped this stuff years ago. The intent to suppress lawful voters because of their likely votes violates lots of fundamental rights and strict scrutiny should have been applied all along. It wasn't. What we got was acceptance of lies by the courts. Voter fraud. No partisan intent. Neutral rules. All the while a conspiracy to destroy democracy was taking place. This becomes crystal clear in Carol Anderson's searing column today in the New York Times. Read it and see if you are not ashamed. Really, all Republican law professors have to tell the Justices is that it is ok to enforce the Constitution. The new conservative majority would go a long way toward saving democracy if it would bite the hand that put it in office. Democracy is at stake. Voter suppression is one step away from cancelling elections. Think about that.

Title: The Catholic Church Child Abuse Scandal Comes Out

Date: 2018-08-15T06:19:00.000-04:00

8/15/2018—A redacted version of the Grand Jury Report was released yesterday and as expected it showed 70 years of repulsive and criminal conduct by hundreds of Catholic Priests in Pennsylvania as well as probably criminal acts of cover up by the Church hierarchy. Good thing it came out and people like me who are critical of some of its recommendations had better acknowledge the important good that the Report is doing, both in allowing victims a forum and in asking questions about who knew what when in terms of persons still active in public life.

That said, there are questions about the Report. The most important one is why the Catholic Church has been singled out in this way? If the answer is that a child abuse report on abuse generally would have been too diffuse to be useful, which is true, there should certainly be another investigative grand jury now that allows all victims of institutional child abuse to come forward. Were there similar patterns in other institutions, like private schools and organized athletics, or not? There have already been some allegations about child abuse in elite prep schools over the years. ([here is an example](#)). These victims also deserve to be heard.

Second, what about innocent persons named as abusers? The public probably believes there aren't any and maybe that is true. Certainly, the overwhelming number of accusations in the Grand Jury Report are true. But 13 of the persons named (out of 301) apparently deny the allegations and that is why the Report was redacted to exclude their names—although the media will probably be able to figure out who most of them were. Perhaps even more important, the cover up allegations might certainly not be true in every instance. So, are innocent persons being included with the guilty?

Third is the question of future reforms. Basically there are two. One is against non-disclosure agreements in settlements in civil cases. I agree that State law should be amended to prohibit all such agreements. (I don't think the Grand Jury Report goes that far). These non-disclosure agreements go way beyond the Catholic Church. They are routinely used to protect powerful corporations.

The other reform, and this is really the focus of legislation in Harrisburg, is the statute of limitations in civil and criminal cases. In 2002, the statute was extended in both, but the change not made retroactive. That is why the Grand Jury Report only led to 2 criminal cases being filed. The last instance of child abuse in the Report occurred in 2010 and most occurred over twenty years ago.

I really don't understand the idea of making a change in a criminal statute of limitations retroactive once it has run. If that is not unconstitutional, it ought to be. There is no constitutional requirement that there be such a limit—there is not one usually in murder cases, for example—but once one has run, surely the defendant's right not to be prosecuted has vested.

In terms of civil liability, it really is a question of whether you are willing to bankrupt the Church over wrongdoing that mostly occurred more than 30 years ago. The Church adopted reforms in Dallas in 2002 that are apparently effective in preventing and dealing with child abuse today. Many victims have come forward and have been compensated. We have statutes of limitations

for a reason. So, I wouldn't support such a rule essentially just for the Catholic Church. But I understand how others would.

Finally, there is the question of reckoning for persons still around. The fall of retired Cardinal Theodore McCarrick for sex crimes against seminarians in June 2018 has raised questions as to [who had been silent](#) about allegations against him over the years. These are the questions that current members of the hierarchy are going to have to answer. Pittsburgh Bishop David Zubick [denies](#) there was any cover up under himself, since 2007, or previous Bishop, and now Cardinal, Donald Wuerl. But there are allegations concerning Wuerl. They, and other such allegations, will have to be looked at in detail.

Title: This Social Democratic Moment

Date: 2018-08-17T17:19:00.002-04:00

8/17/2018—It is said that the Democratic Party is in conflict between its more progressive wing and its more moderate wing. But there is no real conflict. Today's Democratic Party is basically an inheritor of the European tradition of social democracy. It basically seeks the protections and security of the welfare state within a primarily capitalist economy. The Democratic Party does not reject public undertakings in principle, and seeks human solidarity against an overly individualistic market viewpoint. But we are not socialists, democratic or otherwise.

The tradition of social democracy has fallen into disarray and disuse but it brought about and maintained security and prosperity in Europe for 70 years.

There is no reason to reinvent the wheel and deny that all this has been done before and thought before. The point is to cure what ails social democracy; there is no need to invent anything really new.

We have a model in this effort: Tony Judt, the great thinker and historian of the Left, who died in 2010 from the ravages of Lou Gehrig's Disease. It was Judt who started us thinking about what is living and what is dead in social democracy, the title of his famous lecture in 2009.

Just what is living and what is dead in social democracy I will leave for another day. What Judt himself represented, however, is the first step. Judt was humble in his thinking. He was not vicious toward those he disagreed with—they might think he was, but just compare his tone with today's exchanges.

Judt was educated in the history of ideas. He believed with Keynes that when public men proclaim that they are uninfluenced by thought, they are likely just repeating in garbled fashion an idea from the very tradition they think they reject.

Judt was universal. He believed in a common good for all. This did not mean for him the end of cultural differences. But universal values were real to him.

Judt was open to religion. He was a product of the Jewish tradition, however much he became a critic of the policies of the State of Israel. The worst aspect of the thinking of the Left today is its belittlement of religion. In doing that, the Left sacrifices that which is tender and the longing for the permanent and ultimate. Even for what is fair.

Judt was clear that the social democratic critique of unrestricted capitalism is a moral critique. And you can't have a moral critique if religion is wrongheaded in principle—not in its particulars but in its generals.

This is the social democratic moment. The moment to celebrate what social democracy in the postwar period accomplished and how little the Reagan-Thatcher reaction to it brought to us. Ironically, Reagan's great accomplishment was in his unflinching dedication to freedom from Soviet domination. For this he deserves to be lauded. But in this he was mostly within the post-war liberal consensus.

There is much more to be said. But only after recognition of who we are, where we are and what time it is.

Title: Pantheism and Penentheism

Date: 2018-08-21T05:42:00.002-04:00

8/21/2018—One of the issues for a hallowed secularism that is open to the divine is to ask where and how the divine could manifest?

If you are a traditional monotheist, God is a pretty simple idea. God is separate from the world. But this leads to all kinds of issues that for me are unsolvable. The problem is supernaturalism that breaks into the causal connections of the world, creating miracles and creation, but contradicting what we actually know and experience of the world.

But, once the idea of a god separate from the world is given up, God is somehow in the world—or, if the word God can only be conceived of as separate, as a being--then in the world are holiness, the good, the true, the beautiful and justice.

The route often taken by thinkers at this point is called panentheism—God within the world but not the same as the world. God as a kind of blueprint underlying all that we see, know and experience. So, much of the world is ugly and violent, but that is not the divine principle, which is constantly working at purifying the world and becoming more manifest.

In panentheism, you don't ask about where the divine comes from, anymore than you ask that about God in traditional monotheism. The divine is baked in at the heart of reality.

But panentheism still suffers from a kind of dualism—this is not God, that is God. This is the ugly part, this is the good part.

Panentheism is not entirely satisfying, but it is better than a pantheism that appears to make everything holy when we know most of the world—much of the world?—is not holy at all, but horrible.

But I learned yesterday during a study with my mentor of Alfred North Whitehead—Process and Reality, for those wondering—of a different kind of pantheism. In this thinking, God is indeed the whole of reality, but only the whole. We see and experience only partially and from this perspective there is much that is ugly and violent. But we are called through experience always to more, and in that lure to the more, to the fuller, there is our experience of the divine. And if we could somehow see and experience all of reality, we would see God face to face, so to speak. This is like St. Paul who sees through a glass now but will one day see all clearly.

Evil now becomes resistance to the whole. We try to sanctify the partial—our experience, our group, our way of doing things, even our one lifetime—and forget about the whole. We deny the lure of the more and shrivel in our racisms and nationalisms and partialisms. And we all do this. Instead, we should try all our lives to open ourselves to all that reality offers.

I don't know about this. It exalts the aesthetic at the expense of the good, of morality, to some extent at least. I'm more comfortable condemning evil than seeing it as partial. In this pantheism's way of seeing and understanding, even a Hitler serves a kind of good—helping Germans recover pride and economic security—but errs in holding the German race as supreme, an idolatry of racism.

Title: Busy Day for Hallowed Secularism

Date: 2018-08-23T06:38:00.000-04:00

8/23/2018--Busy day. The Kickstarter Campaign for the Bends Toward Justice Podcast Series went live today. Also today is the press conference underneath the billboard in Erie that I commissioned that says Tax Cuts Threaten Social Security. I will have some prepared remarks. Americans are tired of being lied to. But we think there is nothing we can do. This billboard shows that something can be done. It confronts one particular lie--that tax cuts pay for themselves. They don't. They add to the deficit under most circumstances and the 2017 tax cuts are adding to the deficit right now. The politicians who told this lie knew it was a lie and thought it was OK to lie to the American people. This billboard says it is not OK to lie. I would like to see ordinary Americans get together to do things like this--create new ways to confront the lying we see in public life. It might mean billboards. It might mean something very ordinary, like asking every candidate for Congress the simple question, do tax cuts pay for themselves. If the candidate says yes, the candidate is a liar who should not be supported. We are citizens, not subjects. We live in the post-truth age only if we allow it. Politics is complicated. Many matters involve judgment and honest disagreement. You could certainly support tax cuts or urge the privatization of social security in good faith. But democracy requires that debate be based on honest disagreements. Not on lies. I know both parties lie. I have a list of Democratic Party lies also and I would be happy to see them confronted too. (Obamacare did not allow us to keep our medical plans. It is not illegal to accept dirt on a political opponent.) The lie about tax cuts has been a successful one for far too long and is doing real damage. Without that lie, the 2017 tax cuts would not have happened. As to why there is so much more lying now in politics than there used to be, this is a deep problem of relativism and nihilism in our culture. I want to begin to confront that as well with a podcast series called Bends Toward Justice. The kickstarter campaign for that is going on right now. The billboard and the Podcast Series are part of the Truth/Justice/Democracy Initiative that includes efforts to create a bipartisan pro-democracy caucus of law professors to call out both Parties. Against gerrymandering and partisan Presidential impeachment. A best selling book, How Democracies Die, explains how it can happen in America. We must act in creative ways to save our democracy. More partisanship will not do save us. Only coming together.

Title: The Coming Desperate Struggle

Date: 2018-08-24T22:42:00.002-04:00

8/24/2018—Watching recent exchanges on the Law and Religion Law Professor List, it is obvious that liberal legal thinking has not adjusted to the looming loss of the Supreme Court. While liberal political operatives are acting as if Judge Kavanaugh's nomination could be stopped, when his confirmation is actually certain, liberal legal thinkers are still acting as if certain paradigms and analogies are going to be applicable in a few short months. Specifically, in the area of same-sex marriage and religious liberty, these legal observers seem to believe that the new conservative majority on the Supreme Court will not immediately act to protect the religious right to refrain from involvement in same-sex marriage. Even if Obergefell is not itself overruled, there is zero chance that this new conservative majority will allow religious dissenters to be forced by anti-discrimination laws to do anything that compromises religious conscience. And this definitely includes discrimination in the commercial realm. Liberals imagine that there is some rock solid commitment to anti-discrimination law because of the experience of race discrimination, which was not permitted in the commercial realm regardless of religious sincerity. These liberals are about to get a lesson in legal realism. Nothing binds judges when those judges are determined not to be bound. What is shaping up is a very harmful clash between political/legal power, on the one hand, and cultural influence, on the other. Same-sex marriage and other aspects of LGBT rights have won the culture without question. But they have lost in Congress and the Presidency for the moment and that means they have lost the Supreme Court for a generation. This pill is going to be incredibly bitter to swallow, especially because of the refusal to face a reality that is already here. It is already too late to salvage anti-discrimination law. The bitterness should be assuaged by the fact that this religious rearguard action is actually completely insignificant as a practical matter. The conservative protection of religious dissenters could be accommodated without the loss of a single same-sex marriage or the loss of a single other right. Yes, religious believers are about to win an unlimited right to discriminate against LGBT persons, but all this will accomplish in the end is the further discrediting of religion, especially in the eyes of the young. It need have no impact on the actual lives of LGBT persons. Unfortunately, that insight will be lost. Despite all the signs, the loss of the Supreme Court is going to be very hard for the Left to take. No plans yet exist to use that loss to finally translate cultural influence into political power.

Title: Needed: A New Ontology and Epistemology

Date: 2018-08-30T05:18:00.001-04:00

8/30/2018—Now there is an accessible slogan for the 21st century. Basically, a new ontology and epistemology means a new way of thinking about what there is and what we can know. With the death of god, announced by Nietzsche in *The Gay Science* in 1882, the West became materialistic in what was real and sensory in how we could know things. And this is true for most people, including most religious people. And this is both how and why science became so powerful. This worldview says that matter is all that is real and we learn things only through the five senses. This way of relating to the universe was a long time coming. David Hume, who died in 1776, a hundred years before Nietzsche's announcement, was a key figure. But with this ontology and this epistemology, there not only cannot be any god, there cannot be any invisible thing—justice, goodness beauty and truth become things we agree with rather than descriptions of anything real in the universe. And the universe becomes a collection of forces without meaning or purpose. You get a headline like the one last summer in the *New York Times*, *The Universe Doesn't Care About Your Purpose*. Religion under this worldview becomes a kind of fiction, incapable of providing knowledge about the world. Law is dominated by this current ontology and epistemology. Even someone like Ronald Dworkin, who wanted to claim that goodness was real in some sense, felt he had to pay homage to Hume. Dworkin therefore wrote self-refuting nonsense toward the end of his life. I thought all this was an insurmountable dilemma. That is even why I left Judaism. Its talk of God became unreal to me. People have a hard time seeing what this has to do with President Donald Trump. But to me it is obvious that the next step in our current worldview was the death of truth. Once truth is gone as something reliable, I lose the common ground from which to reach out to my political opponents. We then have to hate each other because only winning counts. Before, years before, there was lying and cruelty in politics, but it took place within a context of meaning and truth. Now, there is lying and cruelty within a context of chaos and chance. What I did not realize is that the current worldview is not at all insurmountable. In fact it was surmounted by thinkers like Bernie Lonergan, Alfred North Whitehead and Martin Heidegger. Their thinking does not yet seem to have become popularized in the culture, however. American lawyers were not all lucky enough to have a teacher like Robert Taylor. Nevertheless, it will happen. In a hundred years, it will no longer be thought strange to say that the world is more than matter and not mean that there is a supernatural realm.

Title: When Does Disagreement on Climate Become Dishonesty?

Date: 2018-09-02T06:59:00.000-04:00

9/2/2018—When does disagreement become dishonesty?

In the August 10 issue of *The Week*—the remainder of the old *Newsweek* magazine, I think—the cover story was the summer of hell—*As the World Burns*. Readers may remember that the unusually high temperature in the northern hemisphere and the wildfires raging grabbed the attention of the media at that time. There were quotes from scientists that global warming was no longer a prediction but was here.

The method in *The Week* is to present two sides, one commentary and then at least one overall perspective. In this case, the *New York Times*, why are you not alarmed? Then the skeptical paragraph.

But this skeptical paragraph was unusual. Gone was any hint of denial of the underlying science. Yes, it is getting warmer. Yes, humans are causing it.

This is strange, since it is unaccompanied by any acknowledgment that some of these voices have aided and abetted false denial for years. You would think they would say that we are sorry we were wrong and helped prevent action when it might have been effective.

No. The new word is alarmism. The reason people are not alarmed is the fault of Al Gore for going on about the danger. People stopped paying attention, wrote *Investor's Business Daily*.

Now this is really stupid. Gore went on and on because outlets like *Business Daily* doubted the warnings and prevented action. Now the criminal blames the prophet.

Then there is the right-wing innovation machine. David French is quoted in *National Review* as saying that “the alarmists” must admit that humans have prevented catastrophe before—look how we cleaned up our rivers in the 1970's.

Now this is crazy on two grounds. First, surely people like French opposed the Clean Air Act and other environmental initiatives that cleaned these things up. Second, at this very moment, when the danger is obvious, French is taking no responsibility for proposing measures to prevent further damage.

You should never call the people who disagree with you opponents. You should never call them dishonest. But I don't know what to call this. These conservatives are treating global warming as a political issue they are trying not to lose. Why? Climate change is a predictable market failure because no one owns the climate. It is a tragedy of the commons. So dramatic government action is needed to supplement the market. That is not an attack on capitalism but a recognition of its inherent limits. So, you adopt a carbon tax to mimic what the price of carbon would be if the harms it causes were factored in. Such a tax can be revenue neutral, returned to the people. French engages in vague talk about nuclear power—again just to make a political point that environmentalists won't act reasonably—instead of putting that suggestion in the form of an overall real plan.

I didn't read French in the original, nor the business editorial. But I don't doubt that The Week got the tone right. This is now so irresponsible that it is reminiscent of the cries of alarmism in Britain when Churchill tried to warn his country about Hitler. (All arguments on the Internet end up with Hitler). Then too conservatives—and most people said—what are you so worried about? Unfortunately, they found out.

Title: Happy New Year

Date: 2018-09-09T05:09:00.001-04:00

9/9/2018—Sundown today the holiday of Rosh Hashana begins—the birthday of the world, the birthday of the universe. This is the anniversary of the Big Bang, you might say. Time began today, although that concept is strange indeed. In Jewish tradition, the entire previous month of Elul has been one of introspection. The Saturday night before, just some hours ago, the prayers for forgiveness, called Selichot. Rosh Hashana is the beginning of the Ten Days of Awe, culminating in the fast day of Yom Kippur. During these ten days, one seeks out those whom one has wronged to ask forgiveness and to forgive those who ask for it. The entire holiday is a kind of technology of renewal of the spirit. Having been a participant, I attest to its power. But I actually have never seen it work its magic on others—maybe renewal is hidden. I suppose you could say that it is a time for rededication, but I think that understates the holiday's potential. Better to say that I give up my commitments. I don't assume anything. I will allow the holiday itself to orient my life. I might go into the holiday a Republican and come out a Democrat. Or go into the holiday oriented toward politics and come out a person who listens to a different sound of life altogether. As I say, I don't expect any such thing. And I am not familiar with any literature in which such things happen. But they have happened to me. Happy New Year.

Title: 9/11 R.I.P.

Date: 2018-09-11T17:06:00.002-04:00

9/11/2018--Some people called the 2016 election, the Flight 93 election. The stakes were high. But people lost their lives on 9/11 and no election is entitled to that title. Aside from the somber tone of remembering the loss of life, what have been the consequences of that unique event? I am not sure. The attacks brought tremendous suffering. They led to two unending wars. They militarized our society. And they led to more terrorism. But are the attacks responsible for where we are today? President Bush did not use the attacks as an excuse to go after Muslims. He was very clear about that. The biggest result, aside from the horrible loss of life, was that the opportunity of a that 2001 world were squandered. There was a moment then of the possibility of post-cold war peace and development. 9/11 destroyed that, for sure. So, R.I.P. my fellow countrymen. You are remembered.

Title: Who's Afraid of the Russians?

Date: 2018-09-15T05:48:00.002-04:00

9/15/2018—This blog entry is not about the independent investigation of Russian interference in the 2016 election. The Russians broke the law hacking the emails of American citizens and groups, including Secretary Clinton and the DNC. If President Trump solicited that or encouraged that, he committed a crime and should be punished. Certainly impeached and removed from office. (No evidence he did, however. The Russians did this on their own.) We need to protect all our systems from hacking. But what about the other, far more pervasive Russian interference—all those Russian fake ads and disinformation? Do we need to be afraid of that? Have you seen this stuff? There is an example on the page of a review of Alex Klimburg's book, *The Darkening Web*, in the *New York Review*, from April 5, 2018 (review by Tamsin Shaw), which shows an arm wrestling match between Satan and Jesus. The headline says, "Satin: If I win Clinton wins!" Jesus replies, "Not if I can help it!" At the bottom, the ad, on Facebook, says "Press 'like' to help Jesus win!" It's nice that the ad did not associate Trump with Jesus. That was delicate. But as for the ad itself, why would Americans worry about this? At the same time that this was going on, intelligent, well-known Americans on the Right were calling the 2016 election, the Flight 93 Election. Whatever they meant, that analogy had Hillary Clinton as an Islamic terrorist ready to kill Americans at the Pentagon by crashing a plane. That would have justified shooting her. At least in the ad, Clinton herself might be an unwitting agent of Satan. The point is, this is crazy stuff. If it is serious enough to throw a close election to Trump or inflame American society, then the voters are already crazy themselves. It would be like an ad claiming Clinton runs a pedophile ring, which is also something that was around and convinced some Americans. This kind of weird conspiracy stuff is also another reason that Kavanaugh should not be confirmed. In an ideal world, he would be rejected purely for his astoundingly bad judgment—urging the investigation of President Clinton for Vince Foster's murder or going into serious debt over baseball tickets. It seems to me there is something wrong with this guy and it is not about *Roe v. Wade*. Anyway, the point is, don't worry about Russians inflaming Americans with crazy stories. We should be worrying that Americans listen to this stuff.

Title: The Kavanaugh Story

Date: 2018-09-18T05:58:00.001-04:00

9/18/2018--When I first heard the allegation against Brett Kavanaugh, it seemed to me absolute character assassination. And I said so on Twitter. It is hard to tell anything from news reports, but to me it sounded like a high school groping. A guy and a girl are engaged in quite consensual making out, he gets carried away and she tells him no and he stops. Even in this era, that is not only not a crime, it is normal human behavior. It did not sound like he pushed her into a room, pulled her onto a bed, held her down and started pulling off her clothes, which, of course, would be sexual assault. But I have now read reports that that is exactly what she is alleging. I was surprised to realize that Ms. Ford is also alleging that someone else was present in the room, which is not something normal at all. David French of National Review wrote a column that appeared in the Post-Gazette that says he always thought the allegations very serious, but that now the issue is whether Judge Kavanaugh is lying when he denies them. That is also correct. So, I have to admit that my first reaction was a mistake. Not only is the allegation much more serious than I realized but the absolute denial makes the matter one of veracity, which of course is an absolute for a Supreme Court nominee.

Title: The End of Constitutional Government

Date: 2018-09-21T05:55:00.000-04:00

9/21/2018—I talk a lot these days about the end of constitutional government. I spoke about this theme at Robert Morris University on Constitution Day. These talks emphasize the end of elections. But there is a more traditional fear of the end of constitutional government that we can call Presidential government. The President is not to be a policy maker, especially not a domestic policy maker. This was a real fear that the framers of the Constitution had. It is why Youngstown, the Steel Seizure Case, was so important. The decision emphasized that Congress makes policy, not the President. This is why conservatives criticized President Obama's immigration policies. But most of President Trump's economic policies are similarly abusive—aside from his withdrawing Obama era regulations. The President does not have authority to unilaterally impose tariffs. President Trump is falsely invoking a national security justification, which made no sense in the instances of threats against Canada and Europe, and is only slightly more defensible in the case of China. But even with regard to China, expansive tariffs are an economic policy, not a national security one. As Paul Krugman points out, with abusive Presidential authority, comes favoritism in exemptions—Apple is exempt, for example. Everything about this is corrupt. Even if the policy is justified in part, it is not the President's call. You can say the same thing about a supposed two-State NAFTA agreement. No authority for that either. Maybe worst of all is the widespread suspicion that Justice Department opposition to the AT&T purchase of Time Warner was politically motivated. That is precisely what you would expect from Presidential power abuse. The real question is, where are all those conservatives who criticized President Obama's immigration policies? They were justified then. Don't they see the real threat in front of them? There is something comical about worrying about same-sex marriage and desperately trying to get Judge Kavanaugh on the Supreme Court while the genuine threat to constitutional government goes unremarked. What are they thinking?

9/23/2018—If you had to use one word to describe politics today, angry would be pretty accurate. This anger has no real content. As the 1976 movie *Network* predicted, “We’re mad as hell and we’re not going to take it anymore.” A lot of people have said that *Network* predicted the Age of Trump. But what is most poignant about the movie is that those people shouting out their windows at the end of the movie had no idea of what their problem was and could not have described it. In the words of the headline in the *New York Review of the new Network play*, *Mad As Hell About What?* It isn’t obvious what we are mad about and the usual bromides are irrelevant. The people who say we’re mad about some issue or other are wrong. We are not angry about some issue—government spending, taxes, the environment, social issues. None of those things could account for this kind of anger. It would be closer to the actual phenomenon to say, we’re mad as hell that we’ve been robbed. We have lost something crucial and necessary. We know that. We sense something to which we feel entitled, though we cannot say what it is exactly that we have lost. I believe we have lost the solidity and reliability of the good universe. At least my suggestion reaches the depth that is obviously driving us. You can put that suggestion any way you like—we have lost God; we have lost meaning; we have lost purpose. It makes you furious and, as Fintan O’Toole noted in that same *New York Review* story, this kind of fury is “dangerously satisfying and...treacherously entertaining.” Especially is this so in a world in which there is nothing else other than passionate intensity. Our anger is its own justification. How do we escape this anger? The only way out is to rediscover real purpose, real meaning, real value, in the universe. The greatest danger of the materialism that replaced God, which insists that science does not incorporate truths revealed by religious experience, is that it leads to the view that “the universe provides no normative values to guide the future course of civilization.” Griffin believes that we are simply mistaken. The universe does provide normative values to guide us. And that guidance is not supernatural. Since that is the case, we don’t have to hate each other. We can sit down together to discover how this is so and what we are being taught. Then we would have a politics that would work again. We could still be angry, but not about everything.

Title: Constitution Day Talk at Robert Morris University

Date: 2018-09-26T06:42:00.000-04:00

9/26/2018--The title of the Address was "Taking the Threat to Democracy Seriously: The Truth/Justice/Democracy Initiative. The talk is now available here.

Title: Abortion and Climate Change

Date: 2018-09-28T00:10:00.002-04:00

9/27/2018—Richard John Neuhaus wrote *The Naked Public Square* in 1984. He presciently foresaw the secular future and he worried about the effect of a valueless secularism on American society. Later, in 1990, Neuhaus would found the journal *First Things*.

Neuhaus came to speak at Duquesne University some years ago and he talked about his break with liberalism. He had been a liberal Protestant, but ended up a conservative Roman Catholic.

He said he felt betrayed by liberalism over abortion. He expected liberalism to champion the unborn as the latest population vulnerable to oppression. He praised liberalism's defense of equal rights, especially in the area of race, and could not understand why this traditional understanding would not be extended to the unborn.

If it would not be, there must be something wrong with liberalism.

It was a compelling story. And it made me wonder where the equivalent conservative turned liberal story is? Conservative thought has failed humanity in the realm of climate change. Climate change is a catastrophic turning point in human history. It is not a specific evil, but it is a specific threat. Conservatism has blocked all efforts to deal with the problem. Indeed, in the name of denial of the threat, conservatism has undermined the notion of truth itself, pursuing ungrounded skepticism that now undermines all rationality in politics. This last movement is known as the death of truth, or the post-truth age.

In terms of skepticism, conservatism has plenty of company in the postmodernism of the left. But climate change is uniquely the responsibility of the right, because the phenomenon is a predictable consequence of a market failure that conservatism, as the market driven force in American public life, had a responsibility to publicize and fix.

The market failure was simply that of the tragedy of the commons. Because no one owns the climate, people abused it even though doing so was in no one's long term interest. If industry had had to pay for changing the climate, there would not have been enough money to do so. A stable climate is much more profitable for everyone. But, since no one did own the climate, the market acted as if changing the climate was cost free. Actually, the costs of a warming Earth are enormous.

Why did this happen? Simple greed overwhelmed principle. There never was any actual explanation or defense. Global warming that robs South Sea people of their territory and others of their livelihoods and property, is a kind of theft. Heavy carbon users in places like America and China are stealing from those who are the most exposed to the effects of climate change.

Free market theorists should have been the first to insist that a carbon price was needed to mimic the effect of a private property regime in the climate. But the conservatives I know just put their heads in the sand and allowed the carbon extraction industries to take over the Republican Party and the right generally.

In this way, conservatism failed its most significant test, just as liberalism did in the issue of abortion. Neuhaus, who died in 2009, should have seen this. He should have talked about it. I don't believe he ever did.

Title: Judge Kavanaugh Doesn't Have a Judicial Philosophy: Only Randy Barnett Does

Date: 2018-10-03T06:15:00.000-04:00

10/3/2018—Randy Barnett published a very thoughtful 1000 words in [The Volokh Conspiracy](#) arguing both that judicial philosophy is relevant to Senate votes on a judicial nominee and that Senators who vote against a candidate have an obligation to say for the record what it is about that philosophy they don't agree with.

Randy also implied that a vote against Merrick Garland would have been justified by the Republican-majority on this basis. This is probably a bad idea because it means that no nominees will be confirmed unless the President and the Senate are controlled by the same Party.

But Randy's idea is also unworkable for a simpler reason—judges don't have judicial philosophies in the sense of “a proper method of interpreting our written Constitution.” Only legal academics like Randy have such a thing—because we don't actually decide cases.

Judge Kavanaugh's alleged legal philosophy is originalism—interpreting the Constitution according to its original public meaning and not changing that meaning until there is a constitutional amendment. But Kavanaugh would have voted the same way that Justice Gorsuch—another alleged conservative—voted in his first big case, *Trinity Lutheran Church*, in which the Court held that denying a taxpayer-funded grant for a playground to a church that was available to other nonprofits violated the Free Exercise Clause.

Without doing any research, I'm pretty sure that to the framers, Free Exercise just meant that government could not interfere with religious practice. It would not have required affirmative help by government. So, Justice Gorsuch changed the original meaning of the Free Exercise Clause without a constitutional amendment.

The reason he voted this way is that interpretations of the Constitution have to make sense today to the American people. Government involvement in the economy is now so vast that excluding churches from government programs really does deny Free Exercise. *Lutheran Trinity Church* was therefore a proper decision, but it was an example of the Living Constitution in action. (The Living Constitution is not a method of interpretation in Randy's sense either).

Trinity Lutheran Church is just one example, but it is important because this claim to have a “method” of interpretation sometimes is used to absolve judges from having to defend their decisions morally. If a judge is perpetuating an injustice, that judge should have to answer for that and not pretend that some method forces the decision.

On a whole range of commitments—forced unions membership violates the First Amendment, corporations have rights, advertising is more than a contract offer, property restrictions are a taking, Equal Protection bars gender discrimination—Judge Kavanaugh will predictably vote in ways that either clearly violate the original meaning of the Constitution or at least will vote without really worrying about whether such outcomes violate original meaning or not. In other words, Kavanaugh was picked because he would “simply reach all the outcomes that a [conservative Republican] would like the Supreme Court to reach... .” Not because he has some kind of philosophy.

I don't want a judge who allows the government to violate fundamental rights whether or not the framers would have recognized the right as fundamental. The Ninth Amendment suggests that maybe the framers agree with me about that. My vote on Kavanaugh would in part depend on how he answered that question. Of course, neither I nor Randy are considering how the personal issues now also before the Judiciary Committee regarding Judge Kavanaugh will ultimately play out.

10/12/2018—By nihilism, I mean the belief in the culture that claims of value are just matters of opinion, and are often just manipulations masking the will to power. I have been arguing for years that nihilism has infected the culture and that the effects are dire, especially in the political realm, leading to hyper-partisanship and the death of truth. Still, it is always a shock to see nihilism in an unvarnished state, certain of itself and unwilling to acknowledge its own uncertainty. I received one of those shocks when reading a review by James Shapiro of Rhodri Lewis's book on Hamlet, *Hamlet and the Vision of Darkness* in the April 19, 2018 issue of the *New York Review*. For Lewis, Hamlet is not the model of nascent subjectivity, inwardness, that he is often seen to be: "He is instead the finely drawn embodiment of a moral order that is collapsing under the weight of its own contradictions." (Lewis's words, quoted by Shapiro) And the reason readers have largely missed this? Because we have been unwilling to acknowledge that Shakespeare himself rejected humanism: Shakespeare repudiates two fundamental tenets of humanist culture. First, the core belief that history is a repository of wisdom from which human societies can and should learn.... Second, the conviction that the true value of human life could best be understood by a return *ad fontes*—to the origins of things, be they historical, textual, moral, poetic, philosophical, or religious (Protestant and Roman Catholic alike). For Shakespeare, this is a sham.... Like the past in general, origins are pliable—whatever the competing or complementary urges of appetite, honour, virtue, and expediency need them to be. Shapiro notes that in Lewis' view of Shakespeare's vision, the search for absolutes by which to live and act is doomed to failure. In the search for meaning or fixity, one discovers nothing of significance. Shapiro draws the natural conclusion from Lewis—"The absence of any moral certainties means that it's a 'kill or be killed' world." That is the jungle President Trump lives in, and increasingly, so do we. We can learn from Shakespeare that "the world has always been amoral and predatory." If I may say so, Professor Shapiro, renowned Professor of English at Columbia, seems unwilling to really criticize Lewis beyond acknowledging that "Lewis's Hamlet is not mine." I believe Shapiro generously wishes to give a newer generation its say without insisting on his own vision of Hamlet. Fair enough—more than fair. But I have to ask, how is it that we can have "paid a steep political price for failing to heed Shakespeare's warning" when we, including Lewis, basically share the vision that Lewis attributes to Shakespeare? We have paid a steep price, but we have paid it for accepting what Lewis is offering. We now need to expose this dark vision for the dead end it has proved to be.

Title: Pittsburgh Foundation Grant

Date: 2018-10-16T05:23:00.000-04:00

10/16/2018--Last week the Pittsburgh Foundation approved a \$5000 grant to fund a pilot four podcasts in what I hope will become the Bends Toward Justice Podcast Series of 50 conversations with a variety of Americans about the teaching of Martin Luther King, Jr., that "the arc of the moral universe is long, but it bends toward justice. In my view, as readers of this blog know, American public life is in decline, and private life too, because of the decline of moral realism. These conversations represent an attempt to reintroduce justice and history as serious cultural categories. The podcast series is a part of the Truth/Justice/Democracy Initiative intended to change American public life. Truth refers to the billboard in Erie, PA, this summer that focused on lying in politics. It announced that "tax cuts threaten social security." It was aimed at a particular lie--that tax cuts pay for themselves--but not only lying by one Party. I have Democratic Party lies, also, such as the we keep our doctors and plans under Obamacare, a claim President Obama undoubtedly believed at first, but kept repeating when he knew it was not going to be true. The podcast series represents the justice part of the initiative. The Democracy part has to do with all of my work recently about the looming threat to democracy. The immediate issue is partisanship that overshadows truth. That Republicans will not criticize President Trump about global warming. That Democrats will not acknowledge any good that President Trump is doing. My answer is the formation of a pro-democracy caucus among law professors promising to call out their own side. (Not much luck so far). Here is the billboard and me in front of it. Photo by P. Ledewitz.

Title: Rhodri Lewis Responds

Date: 2018-10-18T04:42:00.001-04:00

10/18/2018--Rhodri Lewis, Professor of English at Princeton and author of *Hamlet and the Vision of Darkness*, responded to my blog post here last Friday. Since I did not obtain his permission, I will only set forth a paragraph from the book that he sent me in arguing that the book does not associate Shakespeare with an entirely nihilistic view. Shakespeare wrote Hamlet as an exercise in truth-telling, an actual way out of the collapse of classical humanism.

It might be objected that I am describing Hamlet as a work of nihilism, in which nothing signifies “but as ’tis valued”. Not so. Rather, this book has endeavoured to demonstrate the extraordinary pains that Shakespeare took to represent the cultural world of humanism as fundamentally indifferent to things as they really are, and as one in which the pursuit of truth is therefore all but an impossibility. All but: taken in new directions that Hamlet lays out for it, dramatic poetry might be able to offer a likeness of this cultural world in all of its self-deceit, illusion, and pretence. Humanist models of history, of poetry, and of philosophy cannot “show ... the very age and body of the time his form and pressure” (3.2.24-25), and are in large measure a part of the problem. By insisting on their own sufficiency, they impede the proper comprehension of the human lot. But precisely because Hamlet is a post-humanist work of tragedy (one might call it anti-humanist but for the fact that the fabric from which it is assembled is so consistently that of sixteenth-century convention), it is not bound by the sort of strictures that Shakespeare brings to bear on superficially imitative neo-classicism. In place of preordained moral reflections that show the world as the playwright and his authorities think it should be, Hamlet – as most clearly articulated in chapter 5 above – provides its readerly and theatrical audiences with the prompt to examine themselves, their presuppositions, and their beliefs about the status of humankind within the moral and physical universes. The audacity of Hamlet is to demonstrate by example, rather than theoretical disquisition, that in the humanistic world of which Shakespeare and his work were a part, dramatic poetry – not history, not philosophy, and certainly not theology – is the medium best fitted to telling the truth. Best fitted to revealing that in its attachment to various forms of theatrum mundi, humankind not only propagates its own ignorance and self-alienation, but ensures that it will remain unable to devise a better way in which to live. Kings, their challengers, and their impetuous heirs will come and go, but the nature of the masquerade will continue unchanged. Only by dramatizing this most self-reflexive of truths alongside the evasions and authority with which it ordinarily eludes scrutiny can fulfilment or progress become a possibility. What that progress might look like, Shakespeare does not say; nor will he do so in Othello, Macbeth, and King Lear. Instead, and to borrow a phrase from Lafew in All’s Well, his tragedies enjoin their audiences to “submit” themselves to “an unknown fear” – one that the canons of neither ancient nor modern wisdom can help them to allay.

10/20/2018—Here is a great instance of how anti-religious thinking becomes second nature among secularists. In last Sunday's New York Times, there was a review of *The Faithful Spy: Dietrich Bonhoeffer and the Plot to Kill Hitler*, a book by John Hendrix. The review was written by M.T. Anderson, described as an "author of books for young readers including 'Symphony for the City of the Dead: Dmitri Shostakovich and the Siege of Leningrad.'" Here is the key paragraph: For young readers, one could easily play the near-miss attempts to kill Hitler as a straightforward thriller. The plots involve deception, gut-wrenching timing and concealed explosives: a bomb in a gift package, a rigged docent conducting a tour of captured Russian weaponry and an explosive briefcase spirited into the heart of Hitler's fortress, the Wolfsschanze. But Hendrix makes the bold and surprising decision to tell it as a tale of faith. We are talking here about the life of one of the greatest theologians of the twentieth century, who, by all accounts, opposed Hitler as an act of Christian witness, and paid for it with his life. His account of his last days in *Letters and Papers from Prison* is a masterpiece of religious thought, inspiring countless believers. Bonhoeffer deeply pondered growing secularism, too, and has been instrumental in religious/non-religious dialogue. In other words, he was a shining beacon of faith, courageous and thoughtful, and died a martyr to Christ. How else could the story of Bonhoeffer's wrenching decision to turn to political violence be told except through his faith? Whatever one thinks of his decision, his faith was the context in which that decision was made. In other words, the plot to kill Hitler can be told in many ways, but the role of Bonhoeffer in it has to be told as a tale of faith. So, what was Anderson talking about? He doesn't seem to mean it is odd to tell the story about Bonhoeffer's role in the plot—and there are other conspirators of religious conscience as well. So, what is surprising about the way Hendrix tells it? I believe Anderson just means young people don't care about religion. But he is wrong about that. Anderson may not care about religion. His friends may not. The readers of the New York Times may not. But children are instinctively religious. They understand better than Anderson what it means to live a life of faithfulness to God. If their thoughts are child-like, they are not childish. If their simple conception of God must change as they grow, it is not the only kind of thought of childhood that must be adapted as we grow. What is "surprising" is that no editor at the New York Times could hear how odd and silly this review sounds.

Title: "Because He doesn't exist"

Date: 2018-10-23T06:48:00.004-04:00

10/23/2018—I go back through my old Sports Illustrated issues—long story—and I found a short essay by Ana Marie Cox about...well, it was about a lot: her dad, Sam, her addiction and recovery, and TCU football. It was the college football playoff issue ([Embracing the Frog](#)). I wish I could write like that.

The part about her slow recovery and her dad was just beautiful.

I trudged off to rehab lonely and in utter defeat, which turns out to be a great state of mind for starting to get better. I had met the enemy and it was me—so I surrendered. Studies show that extended intensive, in-patient treatment is one of the few methods with any success in treating addiction. But it's prohibitively expensive—around \$20,000 a month—and it wasn't covered by my soon-to-be-ex-husband's insurance. I had next to no money. So Sam cashed out some of his retirement funds and paid for all of it. I once tried to thank him for stepping in the way he did.

"Well, statistically, that's what works," he said. "Of course I paid for it."

The foundational truths of my life today are these: I am sober. I am, finally, a fully functioning member of society. And my dad was there for me when I had given up on myself.

Now, Cox herself apparently eventually became a Christian. But the essay was not about that. It was about faith, though, at least faith in football team so bad for so long. (not anymore). One day Cox asks her dad about his atheism, expecting a story. Unsurprisingly, she doesn't get one. Sam is too taciturn.

But when at some point during my own years of religious questing I decided to engage him about his lack of faith, it went like this: "Dad, why don't you believe in God?"

"Because He doesn't exist."

And then he went back to reading the paper.

There is an important lesson here. If God means the kind of being who could be said to exist, like you and me, which is what Cox's dad thinks, then of course He doesn't exist. But I think religious people, thinkers at least, have always known this. If God is important at all, the word must be used to describe reality, not something made up. If we want to describe the triumph of the good, the power of compassion, the forgiveness of sin that we have experienced, the most we could say is that God happens. That is a kind of process language about God. And if some people experience that happening as personal, as if someone is there to answer prayer, well that is also part of the happening of God. But, certainly, God does not exist. I believe it was Paul Tillich, the great theologian, who said that to affirm that God exists, is to deny him.

All these years I have described myself as an atheist, I was describing the same kind of atheism Sam espoused. But this is really not very helpful. Beyond existence, we have to start talking about what reality, including history, is like. Then we may get somewhere. That is what I hope to begin doing in the Bends Toward Justice Podcast Series. More on that later.

Title: The Shootings in Pittsburgh

Date: 2018-10-28T06:04:00.003-04:00

10/28/2018—A story from the July 2, 2018 issue of *Sports Illustrated*, of all places, offers wisdom in light of yesterday's killing spree at Tree of Life synagogue. The story was adapted from Ben Reiter's book, *Astroball*, which is about how the Houston Astros won the World Series in 2017. Before the season started, the Astros signed Carlos Beltran, an aging superstar, to a one-year, \$16 million deal. Before spending that much money, the data-driven Astros wanted to know not just about Beltran's hitting and fielding, but about team chemistry. But nothing about chemistry had ever been quantified, or even really studied. The team examined all major league baseball team performance in terms of what are called fault lines—essentially differences among players, like race and age and compensation. They found that the teams that did best were neither those who were most alike or most different. Instead, two factors consistently aided winning: players who transcended fault lines—a older white, less compensated, player and players who were motivated to deactivate fault lines. America has fault lines—on issues, on race, on compensation, on Parties—what some call tribal factors. And, of course, our politicians and interest groups thrive by emphasizing these fault lines, not by deactivating them. So, you could say, that we need coalitions that transcend our fault lines: pro-choice Republicans, rich Democrats, etc. Of course such people exist, but not together. This analysis suggests that the decline of fault-transcending social networks is as bad for society as some sociologists have suggested—think of *Bowling alone* by Robert Putnam (2000). Of course, Putnam was weaker on what to do than on what had gone wrong, but he has a great deal to say. As Putnam noted, religion was once one of the great networks building what Putnam called social capital. But now even religion tends to divide rather than unify. So, the great task is for secularists to build fault-line transcending social groups—we can start by ending our demonization of religion, seeing religion as still an important societal resource—hear that Brian Leiter! I don't know how to do that, any more than anyone else does, but it is clearly one of our great tasks—along with restoring the climate.

Title: Executing Robert Bowers

Date: 2018-10-30T06:24:00.001-04:00

10/30/2018—We can start with the proposition that anyone who kills someone forfeits his right to live. That is why bad guys in movies are killed. That is why life imprisonment is the normal punishment for murder. We can also agree that there is nothing redeeming about the killer in this case, Robert Bowers. He is not someone mentally ill or abused as a child. Bowers is just what he seems—a miserable, hate-filled killer. It would have been satisfying if Bowers had stood his ground and then been killed in a shootout with the police. What is needed is for Robert Bowers to disappear. The problem with the death penalty is that now we will have to think about Robert Bowers. And it will not be the Robert Bowers who pulled the trigger. It will be this other figure that appeared in court yesterday—an empty shell in a wheelchair. The US Attorney, Scott Brady, said, “We have a team of prosecutors working hard to ensure that justice is done.” But there is no real work to be done. They are just crossing all the t’s. Bowers is the killer and this is a hate crime. End of story. All the rest is inflation. If there were no death penalty, the case would be over in a few weeks and we would never hear from, or think about, Robert Bowers again. And that is what I want. I don’t want my consciousness sullied by him. He is not worth it. People who think they want the death penalty don’t understand how things work. What they really want is for someone to kill Bowers right now. Instead of that, the death penalty prolongs the killer’s public life. The death penalty should be renamed to the Robert Bowers show. And this cannot be cured by speeding up the execution. The problem with the death penalty is that you cannot avoid attending to the killer, when the only important people are the victims. One day, when we do get rid of the death penalty, we won’t even notice how good life will be without having to think about killers.

Title: A Society Without a Soul

Date: 2018-11-03T08:03:00.003-04:00

11/3/2018—In a review/essay in the September 27, 2018 issue of the New York Review, Jackson Lears, Rutgers Professor of History and the editor of Raritan Magazine, wrote about the year 1968. Lears tried to capture the sense of the period just prior to 1968, when whatever promise there had been succumbed to violence, government undercover agents and political assassinations. The sense that Lears emphasizes is religious. He likens 1967 to a moment of yearning for a new Reformation—a more direct connection to the ultimate. He associates Martin Luther King, Jr. with Christian existentialism. In one insight, Lears captures the ultimate critique of the technological world of management: He quotes King, “Somewhere along the way we have allowed the means by which we live to outdistance the ends for which we live.” And concludes, “A society of means without ends was a society without a soul.” This conclusion seems very apt for us. But how can there be ends when all ends are arbitrary posits? Your ends. My ends. Even if a society had ends, they would just be a collection of arbitrary individual ends. Unless the universe itself makes sense and has ends, we cannot. Not really. Once, the end was to bring about the Kingdom of God. That was the heart of the Christian West. It did not survive WWI. I suppose now it could be, without much difficulty conceptually, to build a society of prosperity, justice and peace in a world heading in those same directions. It is hard to see why that sort of movement has either never caught on or ran out of steam. Maybe materialism just does not give me a reason to care how anyone is doing other than myself.

Title: The God Construct

Date: 2018-11-04T05:53:00.000-05:00

11/4/2018—In 2007, as part of the New Atheist wave, Philip Kitcher wrote a book entitled *Living with Darwin*. Kitcher was making the point that the loving, all powerful God of the People of the Book, Christianity, Judaism and Islam, was not consistent with the awfulness of evolution. Evolution is violent and cruel, killing endlessly and in grotesque ways. A God worthy of worship would not work in this way. I did not think about this too much. It was the sort of reason I did not believe in God, but it was hard for me to think that people of faith would be much troubled. Now, 11 years later, I see that people do take Kitcher's challenge seriously indeed. The recent issue of *Zygon* magazine is devoted to the thinking of Christopher Southgate's *Evolutionary Theodicy*. According to Denis Edwards, Southgate's response to Kitcher has three aspects: First, evolution is the only way that a creative universe could go forward—like the Vatican Astronomer I once heard say that God could create any way He chose, but if he wanted to create life with carbon, He had to wait for stars to explode; second, God as co-suffering—God is with all creatures at all times; third, “pelican heaven”—the chick pushed out of nest participates in God's eschatological fulfillment. The reader can make of this what she will. It's not for me. But I am not the audience. For me, the word God must describe the world we know. But the world we know is in many ways miraculous and mysterious and that is about all that we can say. I mean that there are possibilities for truth and justice and beauty that should not happen, but do. I have experienced miraculous interventions in my life, twice in fact. These were saving experiences. So, I know they happen. The universe has a loving aspect. But prayer won't get you rain. A God who could resurrect Jesus from the dead could create without pain. So, I cannot accept the God who resurrects from the dead in a literal sense. Yet resurrection does happen. Every spring, in fact. Hallowed Secularism is the search for where all this leads. Paraphrasing David Ray Griffin, *Enchantment Without Supernaturalism*. Or, as I wrote in the book, if you believe in magic, come along with me.

Title: The Electoral College

Date: 2018-11-09T18:45:00.001-05:00

11/9/2018—Republicans are busy trying to justify what they call the Electoral College. But what they are defending is not the framers' Electoral College. In the first place, no voters were supposed to select the President. The President was supposed to be selected by the delegates—electors—who were themselves elected however the State legislatures decided. That method did not matter that much because the President was not elected by the people. The framers did not want an election of any kind directly for the President because they feared would elect a demagogue. So the decision as to who should be President was left to a group of presumably smart and geographically dispersed men. Needless to say, such a group would never have selected Donald Trump in a million years. So this idea that dispersed voters should elect the President has nothing to do with the Electoral College. Second, "strip out California" in order to give some democratic legitimacy to President Trump is truly politically immoral. The President was not supposed to be a policy maker. But now, unfortunately he is. All Americans are stuck with President Trump's bad policies. Take tariffs—all those Californians are just as stuck with them as is everyone else. The framers never selected minority rule. If they used an election, the winner was the person with the most votes. Period. So, if we now are going to have an election for President, which we do, the framers would never have said the loser should govern. By the way, a much better argument for President Trump is that he campaigned intelligently in the system we have. If he had had to have had more votes, he would have tried to get them. He needed States, so he got those.

Title: The Matthew Whitaker Appointment

Date: 2018-11-17T07:30:00.004-05:00

11/17/2018--What is the Office of Attorney General? "The Attorney General is the head of the Department of Justice. Rev. Stat. § 346 (Comp. St. § 515). He is the hand of the president in taking care that the laws of the United States in protection of the interests of the United States in legal proceedings and in the prosecution of offenses be faithfully executed." *Ponzi v. Fessenden*, 258 U.S. 254, 262 (1922). I mention this because, while there is legitimate speculation about the authority of President Trump to appoint Matthew Whitaker interim Attorney General, the thumb on the scale should be that the Attorney General works for the President and carries out the President's policies. The AG is not a check on the President, except of course the check that any lawyer should be, refusing to act outside the law. The opposition to the appointment of Whitaker has to do with his past stated opposition to the Russia collusion investigation. Again, people are missing the point. Nobody doubted that President Nixon had to be the one deciding whether to fire the independent prosecutor in the Saturday Night Massacre. The resignations had to do with whether a particular person was willing to be the person to do it. That is why Robert Bork ultimately did fire Archibald Cox. The action was ultimately ruled illegal by a court, but it was the President's call whether to fire Cox and then test the legality of the action. This is what it means that the Attorney General is not a check on the President. Ending the Russia collusion investigation may be a bad policy. It may even be obstruction of justice. But the President has the authority to attempt to perform these acts. Courts and impeachment are the checks. Within the Executive Branch, argument and even resignation are all that someone below the President should be able to do. I say all this as a critic of the Russia investigation. It never made sense to me to assume that the Russians needed any go ahead from Donald Trump. They accomplished most of what they did illegally before he was even a serious candidate. Besides, I dislike the whole idea of a genuinely independent prosecutor. Justice Scalia was right about that in the Morrison case. The President has to control the investigation of his subordinates and himself. That is one of the President's natural advantages in conflicts with Congress. The only way to get rid of a President is a 2/3 vote in the Senate or, much more likely, voting the President out of office. I greatly look forward to that.

Title: None

Date: 2018-11-21T13:54:00.003-05:00

Is the New York Times Right About China? 11/21/2018—The New York Times has run a series about China emphasizing how China confounded economic and political prevailing wisdom by accomplishing rapid economic growth and innovation without democracy, free speech, the rule of law, or a more or less free market. It did these things, in part, by improvisation—there actually is a free market and there is criticism of the government. And in part it was luck. But in part the conventional wisdom was just wrong. Partly this is all correct and interesting. And the economic gains are undeniable. But I have not invested anything directly in China because I remain unconvinced. How many enterprises are one arbitrary arrest away from insolvency? How much of the Chinese economy teeters on the brink of contraction because of contradictions that no one can force the leadership to confront? China has succeeded because it has one thing the US now lacks—a serious political leadership that is pursuing national policies that benefit the country. If you believe government is the problem, you cannot do this. If you believe government is the solution, you also cannot do this. We are irrational. China is not. But I believe that the old critique is still valid and that China must change or suffer a real collapse. Prosperity is built on freedom and law. One quote from the China series haunts me. A businessman says, I make a profit and pay taxes, why would bureaucrats bother me? Because they can, as he will eventually find out.

Title: Thanksgiving 2018

Date: 2018-11-23T06:51:00.003-05:00

11/23/2018—Can we count regaining the House as something to be thankful for? As we gather, our loved ones are all well and reasonably prosperous, as are we. The nation is mostly at peace. (when will all our soldiers come home from Afghanistan?). Many Americans who had not found work are working and though the tax cuts derailed the market rally and threaten recession, President Trump gets some credit for other policies that increased economic growth. We can also be thankful that an unfit President like him has done as little harm as he has. We can survive more conservative courts, which might even be a good thing if that forces Democrats to seek policy change at the ballot box. How much more damage might he do before he leaves office. I hope not too much. Trump is certainly tearing up international arrangements that brought peace and growth, but those arrangements found no defenders when he came. So we deserve the blame for that. Maybe we will appreciate the world we had better when he is gone. Trump's hatefulness toward immigrants will be his least lasting legacy. Pittsburgh stands ready for immigrants from wherever. No demonization here. All in all, much to be thankful for. And things could have been a lot worse.

Title: Letter about Kornacki's book

Date: 2018-11-25T06:20:00.000-05:00

11/25/2018--Unfortunately, the New York Times chose not to print this letter, but I thought my readers should see it. We have to remember that the degradation we see begins with the baby boomer generation. ***** To the Editor: Steven Kornacki is right to choose Newt Gingrich and Bill Clinton as the symbols of the decline in American public life. (The Red and the Blue, Nov. 18). Their flaw, however, was not political, but spiritual. These two men, like most of their generation, lacked a demanding moral compass. Bill Clinton ended welfare, had sex in the Oval Office and executed a mentally retarded man in a failed attempt to win the New Hampshire Primary. Newt Gingrich talked divorce with a hospitalized wife and broke every norm of decency in politics when it suited his ambition. Who is Donald Trump, another baby boomer, but a perfect amalgamation of these two? When you answer to nothing outside yourself—even the baby boomer God indulged them—your politics will be whatever you need them to be. Thus, the baby boomers destroyed democracy and did nothing about global warming. Too bad the Greatest Generation raised the Worst Generation. As a baby boomer myself, I feel like apologizing to every young and middle-aged person I meet for the mess we left.

Title: "I Retired

Date: 2018-12-01T18:16:00.000-05:00

12/1/2108—I don't believe I've told this story on HallowedSecularism. A few years ago, I was visiting the Children's Museum in Pittsburgh with our grandchildren, when I was approached by a man who was clearly a Lubavitch on one of their Mitzvah Missions. "Excuse me," he said politely, but are you Jewish?" "I used to be," I answered. "You know," he mused, clearly intrigued, "I have asked that question thousands of times, but I have never before heard that answer." What followed was interesting in its own right, but it is not my point here. Rather, the point is the story itself. I assumed that I was the only one who might have such a tale to tell. Imagine my surprise today, therefore, upon read what was essentially the same story in a review of a novel. Francine Prose quotes the vignette in a review of three novels by the Guatemalan writer, Eduardo Halfon. Here is the story—Prose does not identify from which novel it originates: "I really remembered only three or four words and a random prayer or two and maybe how to count to ten. Fifteen, if I really tried. I live in the capital, I told her in Spanish, to show that I wasn't an American, and she admitted that she was confused because she hadn't imagined there were any Jewish Guatemalans. I'm not Jewish any more, I said, smiling at her, I retired. What do you mean you're not? That's impossible, she yelled in that way Israelis have of yelling." Talk about art imitating life—although, the same thing might have actually happened to Halfon—it is apparently not easy to tell where the novels leave off and real life begins, with him. This is going to be my way of telling my journey from now on—I'm not Jewish any more. I retired.

Title: Needed: A Party of Democracy

Date: 2018-12-07T21:30:00.000-05:00

12/7/2018--The op-ed below was intended for a newspaper, but was never published. So, here it is.

Since the election of Donald Trump as President, Americans have worried about the end of democracy. Our main focus has been on the sins of “the other side.” Events since the Midterms, however, demonstrate that Americans as a whole have lost faith in democracy. We now need a political party dedicated to democracy itself.

Certainly, the Republican Party has shown contempt for democracy. From unnecessary Voter ID laws, to voting roll purges, to even outright threats and intimidation, Republicans have focused on suppressing opposing voters. Some Republicans even joke about making voting “a little harder.”

Unfortunately, in the 2018 election cycle, and its aftermath, the same willingness to violate democratic norms has been evident among Democrats. Three or four of the flipped seats that gave Democrats their majority in the House of Representatives came about because of a new Congressional map imposed by a four-vote Democratic-Justice majority on the Pennsylvania Supreme Court. That decision violated legal regularity: settled law was overturned without argument; a grossly compressed trial schedule was imposed; the Governor was none-too-subtly encouraged to avoid compromise with Republican leadership over a new map. Republican Justices Tom Saylor and Sallie Mundy protested, but only Democratic Justice Max Baer voted both to condemn gerrymandering without endorsing these violations of judicial norms. His was a vote for democracy.

In close elections in Florida, the same lust for victory at all costs could be seen. Democrats showed no concern with seeming irregularities in the vote-counting process. Even if no violations took place, it was obvious Democrats just wanted to win.

Other fallout from the Midterm elections also showed a lack of concern by Democrats about principle. While Democratic candidates for Congress scrupulously avoided talking about impeachment of President Trump on the campaign trail, calls for impeachment emerged almost immediately after the polls closed.

Then there was the willingness of the Democratic Party leadership in Congress to ignore the Constitution in condemning President Trump’s naming of Matt Whitaker as Acting Attorney General. The Attorney General’s job is not to check the President, but to carry out the President’s policies. Sharing the President’s political agenda, therefore, is not only proper, but necessary. Whitaker’s view of the Russia investigation as interminable and unnecessary is not a conflict of interest, but a political judgment. If President Trump shuts down the Russia investigation, it is up to Congress to impeach and remove him, not the AG to stop him.

However, the clearest indication of the decline of democratic commitment was a widely circulated, post-election column by New York Times columnist Paul Krugman, a mainstream Democratic Party voice, attributing recent failures in Senate races to the unrepresentativeness

of the U.S. Senate.

It is true that the Senate over-represents white voters and rural interests. But, the Democrats in 2018 could not hold onto a Senate seat in Indiana—a State not entirely representative of the nation, but one won by President Obama in 2008. Similarly, Hillary Clinton lost the Presidency because she could not win Michigan, Ohio and Pennsylvania—not exactly foreign territory.

Yes, achieving a Senate majority for the Democratic Party will require convincing a genuinely national majority of the rightness of its policies and candidates. But, that kind of commitment is the heart of democracy.

Democracy is ultimately premised on a moral theory. It is not that the majority has the right to rule. Rather, Democracy is the belief that a majority is more likely to be right over time than is any collection of minority opinion. Democracy requires faith both in my fellow citizens to be reasonable, thoughtful and fair and faith that there are answers to political questions that are objectively right, or at least less wrong, than are other answers. Demographics is not destiny. The job of politics is to persuade people.

If Americans now believe that the universe is just a collection of forces and that political outcomes are just a matter of numbers and money, democracy cannot and will not endure. The Party of Democracy that we need is one dedicated to the kind of deep rationality and trust that truly made America great. That democratic faith has defined America historically. That democratic faith is what we are losing.

Title: The Democrats' God Problem

Date: 2018-12-10T05:25:00.000-05:00

12/10/2018—Michael Tomasky pointed out the problem in the New York Review in *The Midterms: So Close, So Far Apart*: Democrats cannot win back the Senate in 2020, and maybe cannot win the Presidency, unless they do better than 25% in rural counties. They have to come closer to 40%. (They aren't going to win them.) Essentially, this is why Beto O'Rourke lost Texas and Sherrod Brown won Ohio. Sure there are lots of differences between the two, but the math is hard to contest. It is hard to win a mildly red State unless you do OK at least in rural areas. Tomasky calls for "a program for rural America." But I'm not sure much is necessary. Democratic policies are not actually unpopular in rural America. The problem is twofold: cultural and legal. The main thing the Republicans push in areas like these is the courts. And what is that supposed to do? Abortion and religious liberty. There is no point in telling a political Party to reduce its support for its core constituency. Abortion is untouchable. The Party could be more open to pro-life Democrats, but the policy cannot change. That leaves religious liberty. But there are actually two things going on here. One is a sense that Democrats hate religion, which is still very popular in rural areas—at least you can't actually be against God and do well among voters. The other is the actual caselaw of religious exemptions. I don't know how far Democrats can go on religious exemptions. Same-sex marriage is another core Democratic Party position. I believe religious exemptions are no threat to same-sex marriage, but Democratic Party voters may disagree. But how many votes do Democrats lose in rural areas because of the perception—increasingly a correct one—that the Party is hostile to religion itself? There is no reason to lose those votes: "Paris vaut une messe," as Henry IV said when he converted to Catholicism—Paris is worth a mass. You want to win 40% of the rural vote? Learn a religious language you can actually speak. There is natural religion. There are many meanings of God. Jesus is a great figure. Stop talking about reason and superstition. Cure the cultural problem and the political/legal one will follow.

Title: What Will Post-Christianity Look Like?

Date: 2018-12-14T06:27:00.000-05:00

12/14/2018—I guess I should ask, what does it look like, since we are already in it. The answer of course is that we don't know. But Ross Douthat is wrong about one direction in may take. Douthat wrote a column about paganism, which refers to Steven Smith's new book contrasting Christianity—transcendent religion—with paganism—imminent religion: *Pagans & Christians in the City*. It's a replay, says Smith, of an old story. Tony Kronman told a similar story in *Confessions of a Born-Again Pagan*. But notice that both Smith and Kronman leave out a much simpler possibility—a secularized version of Christianity itself. This is something of the effort Tom Krattenmaker is taking up in his 2016 book, *Confessions of a Secular Jesus Follower*. Krattenmaker describes that effort as “translating the language of Christianity to make it accessible, meaningful, and believable to me.” Now why does Douthat leave this out? Why do Smith and Kronman? In the case of Douthat and Smith, it is because they are traditional Christians. Paganism is no threat, but any sort of transformed Christianity would be—or so they might think. Tragically, they are not asking the question Paul asked, the question that Dietrich Bonhoeffer asked, “What is God saying now?” Douthat in fact already has named the movements of this direction a Christian heresy in his book, *Bad Religion*. In Kronman's case, it is the opposite problem. He is Jewish and has never known Jesus. He thinks he knows Christianity and is reacting against it. But he has no experience of the greatness of Christianity. If I remember his book, which I need to look at again, Christianity is a comic book. No, there is no pagan revival. Any religious movement today will be Christianized or anti-Christian. In other words, Jesus is the starting point. An imminent Christianity, but with the magical imminence of Alfred North Whitehead and the being of Heidegger. Something like that. Pretending Christianity never happened is sort of ridiculous.

12/18/2018—Today, Paul Krugman published a column today attacking Judge Reed O'Connor's decision not to sever the Affordable Care Act as "partisan." This of course is precisely the same attack that was made by President Trump against the decision by District Judge Jon S. Tigar striking down the government's asylum rules. Chief Justice Roberts responded to that attack by saying that there are not Obama Judges or Trump judges. There is not even room here for a rule of law. Judge O'Connor may be wrong—most legal observers believe he should have severed the law—but there was certainly an argument for honest disagreement. Obamacare was always described as a carefully constructed whole, in which all the parts had to work together. No one thought a simple command that insurance companies refrain from raising rates for preexisting conditions would work without a lot of healthy people buying insurance. Hence the role of the mandate. This changed when Republicans in Congress repealed the penalty for noncompliance. However, many people obey laws and there was still a command to buy insurance. That command was struck down in a perfectly reasonable decision by Judge O'Connor, given the decision by the US Supreme Court upholding the mandate only because there was a tax connected to it. (A decision I still regard as wrong, but hardly partisan). The law without the mandate never made any sense. It is still limping along, but the decision not to sever is absolutely defensible. I don't believe we should leap to the conclusion that judges are partisan. What they are is ideological, which can lead to different results, but rarely do they vote Party. Bush v. Gore was the horrible exception.

Title: More of the New Mark Lilla

Date: 2018-12-23T15:43:00.000-05:00

12/23/2018—Can a person change his mind without ever acknowledging his prior error? Of course the answer is yes. This is what enables Mark Lilla to keep telling everyone what to do without any humility. Actually, he is the person he keeps criticizing. Lilla was my bete noire in the original *Hallowed Secularism* book. Lilla had just published *The Stillborn God* and was writing New Atheist essays about how politics has to be thin, has to be about not harming each other. He argued that this keeps us from killing each other over issues of ultimate salvation. There are no universal truths of politics or morality. We Westerners are always in danger of returning religion to public life. Everything Lilla stood for then has been proven wrong, or at least insufficient. As Michael Ignatieff has pointed out—see August 4, 2018 below—this kind of politics inevitably disappoints. It is not satisfying to people. We need a more robust commitment to truth. Of course, this is obvious now that Donald Trump with his war on truth is President. However, rather than acknowledging his mistake and learning from it, Lilla turned around ten years later and attacked identity politics in *The Once and Future Liberal*—as if identity politics was not inevitable if there were no universal truths. Lilla is still confused about truth, but he criticized identity politics as too thin for modern life. Lilla wrote in that book that we need the universal solidarity that his own group, the New Atheists, helped undermine. Weird. But now, in an essay in the *New York Review*, Lilla goes one more step in repudiating his former self without acknowledgment. He argues that because the French Left has never had much feel for Catholicism, it “is often caught unawares when a line has been crossed.” That description fits Lilla and the secular America Left like a glove. Not being aware that a line was crossed—take the loss of tax exempt status for not recognizing same-sex marriage as an example—is the major reason Donald Trump was elected. The point is that Lilla now recognizes the power and importance of religion, at least culturally and politically, and that he did not before. So, when does he fess up? It would be helpful if he would, because Lilla’s confession of error might influence other secular leftists to stop going after religion.

Title: The Parable that Ends the Novel, The Chosen is a Christmas Parable

Date: 2018-12-25T22:34:00.002-05:00

12/25/2018--I don't have the novel in front of me, but Potok tells a parable akin to the Parable of the Prodigal Son. There is a son who renounces his father and lives a dissolute life. His father sends a servant to ask the boy to come home. He says, "I cannot." The father sends the servant a second time and says, "then come as far as you can, and I will meet you there." In the classic Christian telling, that is what God did today all those many years ago. Humankind, cut off from God, cannot reach out to him. So, God goes to man, meeting him there, in human life. Merry Christmas, 2018.

Title: Holiday Travel

Date: 2018-12-28T01:07:00.001-05:00

12/28/2018--Hallowed Secularism takes a break for two weeks because of travel. Happy New Year to all. Maybe the New Year will bring a spiritual reawakening to America. I do sense a change. Tom Krattenmaker, for example, is certainly getting a hearing he has not quite had before. It would be a good thing if we decided that President Trump is not the issue. Only a really spiritually bankrupt country would let a man like that anywhere near the White House. He is symptom not cause. Biblical religion has a category understood as God's judgment. We are paying a price for the kind of country we have been and the kind of life we have practiced. Dr. King talked about the four evils: militarism, materialism, racism and poverty. America has promoted them all. The last speech Dr. King wrote, which he did not live to deliver, asked whether America was going to hell. Turns out we were. But Biblical religion has another category--redemption. Exile does not last forever. We learn from our sins. We live better. I hope that will be true for all of us in the New Year.



POSTS:
2019

Title: What's Wrong?

Date: 2019-01-15T09:52:00.001-05:00

Came back to more bleakness. (But had a great trip)
1/15/2018—The answer, it seems, is everything. Political systems are obviously failing. See Trump, Brexit, Europe, China, Russia, etc. Economic systems are failing—see the frustration of ordinary people with the fruits of economies going to the wealthy while ordinary jobs disappear. At the same time, debt is growing—I heard last night \$254 trillion worldwide. That is not sustainable. And, on top of all that, as David Brooks pointed out in today's New York Times, people are increasingly cruel toward each other. Not just hatred toward immigrants but the call-out culture about everybody. This is why the-world-is-getting-better crowd is having so little impact. See Steven Pinker. It doesn't feel better. And then there is global warming, which threatens to end civilization. See Florida flooded and Las Vegas abandoned. (If that is the end of civilization) But of course all of this really is exaggerated. The world does always have problems and compared with WWII and the threat of nuclear annihilation, things have gotten better. The reason it feels so much worse is the absence of a beneficent myth. Materialism and positivism are just not sufficient to sustain human life. Neither is science per se. Humans need to live in a meaningful universe. We evolved to believe that and now, with the death of God, we don't. I know most of the world is composed of believers, but somehow even their beliefs have been undercut. Religion is now itself a source of hatred, rather than love. So, all we need is a new understanding of reality. One that combines meaning with nature. Not impossible, but more on how later.

1/20/2018—Dr. Kathy Glass gave a wonderful Martin Luther King, Jr., Day Address on Friday. Her goal was to reintroduce us to the life and basic teachings of Dr. King. The striking image I took away was the love-driven politics of Dr. King. That is something we don't do now, of course. What did Dr. King mean? Well first of all, he meant agape love—in the Christian tradition—let's say unselfish concern for the welfare of others I do not know. To have concern for the other at the heart of my politics. And Dr. King meant in particular not just love for the stranger, but love for my enemy. That is, actual concern for the welfare of those who oppose me and seek to do me harm. That is obviously precisely what Jesus practiced, if the Gospels are reliable at all. This is the foundation of Dr. King's famous saying—Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that. This is why Dr. King never sought to defeat his enemies, but to convert them. Not to Christianity per se, but convert them to more loving lives themselves. In Dr. King's hands, these were purely practical matters, not a matter of an ideal. If you want to see a very simple and direct version, look at his 1957 sermon here. There are three basic steps to practicing loving the enemy. First, know your own faults and how you have contributed to breakdown of community. After all, in the loving community, we don't have enemies. We are at fault is the number one requirement. If you cannot see your own hatred, you can't help anything. Second, know the good in your enemy. If you think there isn't any, you are just dealing with caricatures, not people. Your enemy is trying to accomplish something that is not itself pure evil. (Hard to believe with President Trump, but we are instructed to try). Third, when you have a chance to defeat your enemy, don't do it. Don't take your revenge when you can. This is agape love. A creative force for good in the universe. Dr. King ended the sermon with the question of why we should love our enemy. Three reasons. Love reduces the chain of hate in the universe. Hate warps the person who hates. And finally, love redeems. It is the only thing that actually improves our situation. Dr. King gave this sermon in 1957. His life over the next ten years demonstrate the power of his message, and its truth.

Title: Why Wasn't Fukuyama Right?

Date: 2019-01-21T06:46:00.000-05:00

1/21/2019--Why didn't 1989 turn out to be the end of history? In retrospect, we think Francis Fukuyama was silly. But the consensus in 1989 was that the combination of government humanity had hit upon--representative democracy, judicial review (the rule of law) and market capitalism with a safety net--was about the best you could do and was not likely to be improved very much and did pretty well for people. That conclusion did not turn out to be wrong. Although the political world is cracking up, no one has come up with a better ideology. I for one still believe in the system Fukuyama described. Is China a better system? Fukuyama was destined to be wrong about history because of the rise of new powers--China, for example--the decline of old ones--America--and new threats--like climate change. But why did he turn out to be wrong about politics? Why didn't that three part consensus system prove stable? The Left says economic inequality and the loss of jobs. But people did not actually get poorer. But yes, life did seem hopeless to many people and that is why Trump and Brexit won. But why did life seem hopeless? Economically things were not that bad for most people anywhere in the West. Was it the dislocations of 2008? The Right says two things. Too much government proved intolerable. That's what the rich say. The populist Right says what the Left says, plus nationalism and racism. "We" are disappearing. Here is the crisis of immigration. I believe that the breakdown occurred because of what I have called The Crisis of Secularism--See my book, Church, State and the Crisis in American Secularism. The crisis is the failure to create what this blog calls Hallowed Secularism. In other words, life has no intrinsic meaning. Traditional religion--Christianity and Judaism--fail to remain vibrant and believable and no other account of meaning arises. So, Trump. Brexit. Nationalism. Populism. The dark forces that are always potentially present are no longer held in check by a myth of intrinsic meaning--a way to fit into the universe. The way Michael Ignatieff puts this is to say that secular society inevitably disappoints. But that is because he cannot imagine an account of intrinsic meaning arising from naturalism. Alfred North Whitehead would disagree about that.

Title: Why There is No Left Federalist Society

Date: 2019-01-26T15:27:00.000-05:00

1/26/2019—This question was put on Politico by Evan Mandery and then responded to on the Mother Jones blog by Kevin Drum. Mandery correctly points out that the lack of a large idea is a problem. Drum disputes this. The direct reason for no liberal Federalist Society is that there is no such thing as liberal constitutional theory. But why is that? Why is there no organized alternative to originalism? Liberal, or Left, constitutional theory is not hard to imagine. You just merge the pragmatism of the framers about the size of government—big enough to counter private power—with an intention to protect human rights, written and unwritten. So, why is this simple formulation never, never communicated? Because it would require the Left to come clean about rights. The framers thought rights were real—that is, independent of human formulations about them. (think the arc of the moral universe and justice). But the Left today is anti-essentialism. You cannot say what human nature is or what the universe is. Rights are just made up. No one wants to admit that the approach of the Left to rights is the same pragmatism as the approach to government power. So, no discussion of Left constitutional theory.

Title: How to Save American Democracy

Date: 2019-01-29T09:33:00.000-05:00

1/29/2019--Although we may think that this is the question everyone is asking, it isn't. The question we are actually asking is how I can win. The answer to that question will not save American democracy. Democrats today just want to win Congress and the Presidency. They have no intention of healing the wounds that brought Donald Trump the Presidency. Defeating Trump will not save American democracy. To do that, Americans must learn to trust each other again. Saving democracy requires work on two-levels: philosophical and practical. On the practical level, Steven Levitsky and Daniel Ziblatt explain in *How Democracies Die* that you have to restore tolerance and forbearance to save democracy. Tolerance means accepting that the other guy sometimes wins gets to govern. Forbearance means you do not do everything in your power legally to frustrate that. Republicans long ago gave up tolerance and forbearance. They all voted against Clinton's first budget in 1993. Democrats were slower to give these norms up, but they are gone now. The two worst examples of the lack of tolerance and forbearance are manipulating the Electoral College and packing the US Supreme Court. The Electoral College manipulation was tried and fortunately it failed. The idea was to have Republican States keep winner take all Presidential election but have States like Pennsylvania move to congressional district election. If this had succeeded, Republican minority Presidential rule would be made permanent. This was a real conspiracy and I don't understand why all Republicans did not oppose it. Some did, which is why it failed. Court packing is the next threat and I judge its chances to be 50/50. We have to take a stand against it now. It would end all semblance of the rule of law. But that is why Court-packing is not unthinkable. We don't believe there is a rule of law. We believe with President Trump that there are Obama judges and Trump judges. So we have to proceed to restore the rule of law as well as oppose Court packing. I will speak in a few weeks in Memphis on these points.

Title: Leaver Agriculture

Date: 2019-02-02T06:25:00.002-05:00

2/2/2019--In the marvelous book Ishmael, which my students in Law and Philosophy read, Daniel Quinn points out that settlement and agriculture was known by indigenous peoples who lived sustainably within their areas. (Weren't the Iroquois an example of that?) People calls these people Leavers.

But the question has always been whether this model is of any use to us--Quinn's Takers.

There is now a model of the kind of agriculture that a Leaver might practice in our society. You can see it in the writing of California farmer Mike Madison that I ran across in a review by Verlyn Klinkenborg in the New York Review in the September 27 issue--Green and Pleasant Land (locked on the New York Review webpage).

The normal farmer mantra is kill everything but the crops, says Klinkenborg. And the average farmer is a complete slave to the likes of Monsanto--seeds are leased. But there are other ways to farm.

Here is a flavor of Madison's farming, with some quotes from Madison.

The point of all these lists and calculations is to help measure Madison's efforts to keep his farm in balance with the world. "It is instructive," he writes, "to draw a line around the perimeter of a farm and then to measure the movement of materials (or energy) across that line, onto and off the farm." By this standard, conventional farms—heavily reliant on petroleum-based chemicals, fossil fuels, and leased seeds—are sinkholes of consumption. Madison's goal is to make the farm operation as self-provisioning as possible, so that the farm supplies as many of its own requirements—energy and fertility, for example—as it can. This, of course, is one of the basic measures of sustainability. So is the "psychological well-being of the farm family," a standard you'll want to keep in mind while reading This Blessed Earth.

In America—thanks to its abundance of land—there have always been two kinds of farmers: movers and improvers. Movers were the ones who farmed out the fertility in a patch of ground and then moved along to the next patch. This is more or less how America was settled. Improvers were the ones who did everything they could to preserve and increase the fertility of their soil. The intensity of the debate over these methods reached its peak in the early nineteenth century.* In the long run, the improvers faded from the discussion, especially after World War II and the introduction of chemical fertilizers. The movers continue to move, but in a different manner these days. When farmers ran out of new land, they simply mined their way downward through the fertility of eroding layers of farmland until they reached the place we are now.

Farmland, instead of being a carbon sink, has been forced to surrender its carbon. Iowa's once-black soils are now "a washed-out tan color from loss of organic matter." All that lost fertility is replaced annually by injections of anhydrous ammonia, which is toxic to soil organisms and slowly acidifies the soil. You could argue that modern agriculture has brought about the most

wholesale ecocide on the planet by killing the astonishingly rich microbial life of the soil. It's worth drawing up another analytical model of the kind Mike Madison employs. Ask, simply, where soil is being replenished with organic matter—cover crops and manure, for instance—and where it is not. What you end up with is a perfect map of the division between conventional, large-scale, industrial agriculture and small-market farms. A map like that would also provide a stark reminder of how colossal the scale of conventional farming really is when compared to small, artisanal farming, something that's easily forgotten when you're shopping at the farmers' market.

Madison believes that “farming is not a perversion of nature, but a natural development in our planet's evolution.” There is a lot of optimism lurking in that thought. Anyone who can write “I expect to still be farming at age 80” is an optimist at heart, no matter how cautionary or skeptical he often sounds. In fact, I would say that *Fruitful Labor* may be the most optimistic book it is possible to write that also contains this sentence: “We are a flawed species unable to make good use of the wisdom available to us, and we have earned our unhappy destiny by our foolishness.”

It turns out that James Madison had a Leaver perspective. Read this last paragraph.

Madison's fundamental argument about the deep ecology of farming is one that another Madison—James Madison—would have agreed with. In May 1818, while Cobbett was still living on Long Island, the former president—an improving farmer—gave a speech to the Agricultural Society in Albemarle, Virginia. He said something that has become almost unsayable in the world we inhabit now—unsayable at least by the sitting president and his environmental and agricultural appointees. “We can scarcely be warranted,” Madison said, “in supposing that all the productive powers of [Earth's] surface can be made subservient to the use of man, in exclusion of all the plants and animals not entering into his stock of subsistence.” It is truly painful to leap ahead two hundred years and realize that one of Mike Madison's reasons for continuing to farm is this: “In an increasingly unstable world it is important to keep the farm as a refuge for family and friends in times of economic collapse and social disarray.”

Title: This Political Moment

Date: 2019-02-10T07:27:00.000-05:00

2/10/2019—Bret Stephens wrote a good column urging Virginia Governor Northam not to step down. He wrote that at least in the case of non-criminal acts long ago, we should not judge people by their worst moments. You have to judge a whole life. David Brooks wrote something similar about call-out culture that banishes people over lapses of judgment, like sending an unwelcome photo. This is something to think about and I admit to mixed feelings. There is a phrase—to be like Caesar's wife. Politicians should understand that standards for them will be higher. It's too bad that President Trump got elected despite his horrible behavior—too bad he got nominated. And Northam was not young—he was a medical school graduate. Plus, racism by doctors is especially heinous. Zero tolerance is sometimes a good thing. But the Germans decided that not all members of the Nazi Party were to be banned from public life. (Heidegger was a notable member). Then there is the question of crime. Virginia Lt. Governor Justin Fairfax has been accused of conduct that was criminal. Sexual contact without consent is assault or rape—both serious crimes. But despite the unfairness of past standards, I don't believe that you just say, always believe the woman. It is reasonable to look at the context and try to decide who is telling the truth. If even they know. In the case of Dr. Tyson, engaged as they were in kissing in a hotel room, I suppose Fairfax might not have even known she did not want to go further. I can understand why she never said anything. The case of Meredith Watson seems much worse in terms of potential crime. Her attorney called it rape; there was no consensual romantic activity; she immediately told her friends and posted that there had been date rape. If these things are all true, this was no misunderstanding by Fairfax. And it would have been rape pure and simple. He would still be in jail. Fairfax has asked for an investigation and he deserves one—so do the people of Virginia. But unlike non-criminal conduct that is shameful, there should be no political statute of limitations on serious crimes. Serious criminal conduct should disqualify someone forever from public life. So, yes, it's a good moment to confront our own casual wrongs—racism and sexism and other wrongs. But the overwhelming majority of men have not committed rape or other serious crimes. It is not too much to say that conduct like that is a lot worse than a social error.

Title: Ishmael

Date: 2019-02-12T05:22:00.001-05:00

2/12/2019--My class in Philosophy of Law finishes Ishmael by Daniel Quinn this week. I've mentioned the book from time to time on this blog. I always try to assign it in some class or other. The premise of the book is that the civilization that has its roots in the neolithic agricultural revolution--meaning the civilization of the whole world bar none--believes that the world belongs to man and man has to make it a suitable home. By following this bad belief, this worldwide civilization is destroying the world. Quinn calls this people the Takers. The Takers think of ourselves as humans, but we broke off from a much longer human tradition, which Quinn calls the Leavers. These are all the indigenous cultures and peoples who ever lived. These cultures are now mostly destroyed by the Takers. In fact, the descendants of these indigenous peoples now are mostly embedded in Taker culture, often against their will or even knowledge. The Leaver premise was that man belongs to the world and that the world was a garden for all. Following this belief, Leavers lived in harmony with the rest of the life community. Not because Leavers were any less violent, cruel and mean than Takers, but because they were living out a healthy story. Leavers were also happier and healthier. Quinn believes Leavers were experimenting with civilization in the Americas when Takers arrived and killed and enslaved them. But these experiments are available for Takers to consider and change our way to be in this civilization. But Quinn makes another point, you might say one about Taker politics. All of Taker civilization is a prison. The only liberation is liberation from that prison. Nevertheless, within the Taker prison, some people have more privileges than other inmates--like in any prison. The ones who have more privileges are wealthy white males. The teacher, Ishmael, a gorilla, warns the student not to become fixated on power within the prison. The point is liberation for the whole world from Taker destruction. The symbol the author chooses for wealthy, white male privilege is Donald Trump. On page 252. In 1992. You could look it up.

Title: John Yoo, War Criminal

Date: 2019-02-16T13:54:00.002-05:00

2/16/2009—I just had a series of exchanges on Twitter concerning John Yoo, author of the 2002 Torture Memos that gave as a legal opinion the view that coercive techniques could lawfully be employed in the War on Terror. Yoo was Deputy Assistant Attorney General at the time. There was a series of memoranda, but the fundamental ideas were three—a strained interpretation of illegality that defined waterboarding, for example, as not prohibited by statute or treaty, an understanding of executive power that concluded that any congressional limits would be an unconstitutional infringement of the President’s war powers and an interpretation of the necessity defense that would allow almost any actions to be justified by the threat of terrorism. This period was a stain on the honor of the United States. And the author should be regarded as a war criminal. Yet, somehow, Yoo has escaped all blame. He is the Emanuel S. Heller Professor of Law at Berkeley. In a world in which blackface disqualifies someone from public office and even the allegation of sexual assault is taken as condemnation, the justification of torture does not affect the public life of John Yoo. I once tried to get the authors of my casebook at least to take any opinion of Yoo out of the book. You would think that the AALS would pass a resolution condemning him. That he would be shunned. But none of this has happened. Nor has he ever apologized. My Twitter exchange had to do with abortion. I will say here what I said there. A nation that tortures its enemies will never embrace the sanctity of life. It has already decided that the ends justify the means.

Title: Opening of the Memphis talk on Court-Packing

Date: 2019-02-23T14:35:00.001-05:00

2/23/2019--Here is the opening of the talk I will be giving at Memphis Law School in two weeks. I mentioned the themes back on January 29 below.

To Save American Democracy, Prevent Court-Packing

Bruce Ledewitz

The University of Memphis 2019 Law Review Symposium: Barriers at the Ballot Box

I never expected to have to ask for help in saving American democracy. And when I say saving democracy, I don't mean something abstract, like curbing the power of courts or limiting the influence of big money. No, I mean help in preventing a military takeover.

For this can happen here. It might be closer than we think.

It is not news that American democracy is in trouble. Republicans and Democrats do not trust each other. Americans inhabit different narrative universes. We are bitterly divided even though the issues over which we differ appear to be quite ordinary.

The reason the threat to democracy is so clear to me is a 2018 book, entitled *How Democracies Die*, that compares the current American situation with historical examples of how democracies have actually ended. The authors, Harvard University political scientists Steven Levitsky and Daniel Ziblatt, show that democracies end when the norms of tolerance and forbearance are violated.

Tolerance means the acceptance that "the other side" will attain power from time to time. Forbearance is the related norm that when this situation occurs, the minority will not do everything within its legal powers to prevent the enactment of the policies of the other side.

Clearly American politicians are not practicing tolerance and forbearance today. In terms of tolerance, the 2016 election was regarded by some Republicans as the "the Flight 93 election: charge the cockpit or you die." And most Democrats regarded the possibility that Donald Trump might be elected President as loathsome and unthinkable.

In terms of forbearance, the Republican majority in the Senate refused to even hold a hearing on the nomination of Judge Merrick Garland to the Supreme Court. More recently, the Democrats filibustered the nomination of Neil Gorsuch without much justification.

In a healthy democracy, you let the other Party enact its policies and then reverse them when your side is returned to power. You can always tear down a border wall, for example. A border wall not an existential threat.

The norms of tolerance and forbearance have been slowly weakening for a long time. Bill Clinton's first budget, in 1993, for example, passed without a single Republican vote in Congress, for example. In 2013, Democrats ended the Senate tradition of the filibuster for many

judicial and executive nominations.

Levitsky and Ziblatt place the major blame on the Republican Party. That may be part of the reason that their book has not had the same effect across the political aisle.

That limited appeal is unfortunate because “who started it” is quite irrelevant. Once tolerance and forbearance begin to slip, partisans on both sides are justified in claiming that every new outrage is just a response to a previous outrage by the other side. When you fight fire with fire, the whole world burns. When you fight the absence of tolerance with intolerance of your own, democracy is destroyed.

It takes real statesmanship to break this cycle. It is not clear that such statesmanship is available in America today.

We cannot expect help from the Supreme Court. In the first place, the Justices do not yet appreciate the danger to American democracy. That is obvious from their unwillingness to address gerrymandering on the merits.

But even if the Justices were cognizant of the danger, there is not much they can do. The decline of forbearance does not require illegality. It was not illegal to refuse Judge Garland a hearing. It was not illegal to limit the filibuster. It would be helpful if the Justices proclaimed the fragility of democracy. But in the end, the responsibility to sustain democracy lies with us.

How will American democracy end? In my paper, I describe two nightmare scenarios that could so undermine the legitimacy of the American governing structure that some kind of takeover would be inevitable. These two scenarios are the partisan manipulation of the Electoral College and the packing of the U.S. Supreme Court by increasing the number of Justices.

These two scenarios pose very different threats today. For the moment, the Electoral College looks safe. The current threat is much more likely to come from the Democratic Party packing the Supreme Court.

Title: The Communitarian Collapse in America

Date: 2019-02-28T05:55:00.001-05:00

2/28/2019—Ross Douthat wrote a column yesterday in which he discussed the changing view of the State on the Right. Conservatives traditionally defended limited government in order to allow civil society to flourish, including corporate life. But now with all civil life in decline and corporations unmasked as bad citizens, some on the Right want to turn to government, to some extent at least. A good column, but, as I wrote in a letter to the New York Times you won't see, basically beside the point. You can't adopt policies to address social decline when you have no idea why they happened in the first place. The renewal, when it does come, will come by way of a secular acknowledgment of the crisis of meaning. With the death of God, the story of human life that was told in the West ended. Nietzsche knew what a momentous event that was. Secularists today are blasé. The neo-pagans, like Anthony Kronman (*Confessions of a Born Again Pagan*) and John Gray (*Seven Types of Atheism*) tell us to cultivate our own gardens and to seek equanimity. No thanks. This is not good advice for this culture. More helpful, maybe, is a work from 1981 by the German social observer Peter Sloterdijk, *Critique of Cynical Reason*. Sloterdijk also says that "the critical addiction to making things better has to be given up" but, he adds, "for the sake of the good, from which one so easily distances oneself on long marches." The long march is Communism. That may also stand for any other project of making things better. They threaten "the good." But because Sloterdijk can still write of the good, he is still one of us wanting a better world. He is just saying with the doctors, first, do no harm. Americans are stuck right now not daring to believe in a good that has power, in a truth that will be accepted. It is not all on us. There is a hidden order that all humans are bound to follow—are meant to follow. If you follow it, you have lived a good life and can die with the equanimity that the neo-pagans promise. But it is not just about you. It is about loving your neighbor. There is a lot here. And not much has to do directly with politics.

3/7/2019—Despite impressive performances, especially by Bryan Cranston, and wonderfully effective staging, the fundamental problem with the play Network is the movie it is based on. At least as rendered, the message of the play is one of nihilism. The news star, Howard Beale, goes through several attempts to figure out what the problem is—he admits he does not know what should go in the telegrams that are going to the White House—but ends the play with the peculiar idea that the problem is belief in absolutes. No one in the play had believed in any absolutes. In fact, Beale had earlier said to the camera that we do what the tube tells us and believe nothing at all ourselves—very much akin to the Das Man section in Heidegger's Being and Time: we do what they tell us. It is a cheap and unsatisfying ending. We have to disagree. Something like religion could not be the problem because no one we see in the play is religious. The dramatic highpoint of the play is the remarkably staged “We’re mad as hell and we’re not going to take it anymore” sequence. But everyone in the theater is aware that just such a feeling of wanting to push over everything got Trump elected. The phrase now sounds like a real mistake. I believe somewhere someone connected with the play said he learned of the value of expressing anger. I doubt people in general agree with that given the way things are today. It always was a mistake to just get mad. Beale says we’ll figure out later what to do. The main thing is to get mad. Well, now we’re mad all the time so that can no longer be said. Beale experiments. It’s corporations. It’s individualism. It’s the nation-state. What comes across is the exhaustion of our elites, specifically the writer, Paddy Chayefsky. Thankfully, Beale still believes in free speech, but not in any of our other values. He criticizes people for not reading books or newspapers, but does not try to educate anyone about anything—until he has a personal interest in a Saudi takeover of the network. At that point, democracy proves very effective in stopping a merger. Chayefsky predicted the rise of infotainment, but has no alternative to offer. It’s all a lot of magic thinking. There is some secret that will make the world better. Network does not want to grapple with the hard work of self-government. It encourages us to demand answers from others—our elected officials—without any work on our part. Television makes us political consumers rather than participants. It would be nice to think that this is what the play/movie is trying to show. That we need to be participants in working out the problems of our society. But that is not the play's point. Instead, fatalistically, we are told that there is nothing much to be done. Nothing beyond not believing in absolutes.

Title: Best Column Even by Thomas Friedman

Date: 2019-03-10T08:08:00.000-04:00

3/10/2019--The column is Ilhan Omar, Aipac and Me. I especially like its reminder of the disgraceful Congressional invitation to Netanyahu over the objections of our President. The column appeared on Thursday, I believe.

Title: The Response to My anti-Court-Packing Message

Date: 2019-03-17T06:32:00.000-04:00

3/17/2019—Just back from the well-organized and insightful symposium on voting rights at the Memphis Law School—maybe the most impressive law school building in the nation (the old customs house in downtown Memphis). Thanks to the marvelous law review staff. I was the final speaker, late in the day. But energy did not flag when people realized what I was talking about. The responses depended on the orientation of the questioner. Certainly, the major response was surprise. People had no idea that Court-packing was so likely to be attempted. It helped that Beto O'Rourke endorsed something like it when he announced. The response by moderates was agreement—I did not hear from anyone really on the Right. I suppose they would have been even more grim. And the agreement was not just about Court-packing, but my more basic point about the destruction of democratic life itself. There was also the fatalist response—this too shall pass. People are always doing terrible things and we don't self-destruct—an absolutely true observation, until we do destruct. Finally, there is the response from the Left—you are telling us to disarm while the Republicans win. This will be the response most difficulty to overcome. Steven Mulroy, a speaker and professor at Memphis, made a creative suggestion that the Democrats use Court-packing as a threat to force bipartisan agreement on an amendment to create term limits for Justices. Certainly that would be better than Court-packing and it would limit the control of the Court that Republican believe they will have for the next 25 or 30 years. Hard to arrange though, unless you have already overcome the mutual anger of the moment.

Title: My op-ed on the Bladensburg Cross

Date: 2019-03-21T06:24:00.000-04:00

3/21/2019--My [op-ed](#) on the peace cross appeared in the Washington Examiner today. Here is the original version (some minor changes and omissions in the paper).

How the Court Should Rule in Favor of the Cross

The cross in Bladensburg isn't going anywhere. That was clear from the oral argument in *The American Legion v. American Humanist Assoc.* The Court may even be unanimous that the cross can stay on public land.

That is not surprising. The cross is an almost hundred years old WWI memorial without further religious reference. Crosses have symbolized the dead of The Great War since John McCrae's epic 1915 poem, *Flanders Fields*.

What matters is how the cross stays—do the Justices add to American divisions or begin the process of healing?

Thanks to President Donald Trump, there is a pro-religion majority on the Court. That majority could abolish the requirement of a secular purpose in Establishment Clause cases—the Lemon test—and substitute a no coercion test. That would allow the government to endorse religion, and even endorse Christianity. This would be seen as a big win for one side in the culture wars.

Treating religion as either/or goes back a long way. The legal theorist Ronald Dworkin once asked whether America would be a religious country tolerating non-belief or a secular country accommodating believers. This is like asking who's the real American. You could hardly be more divisive.

Even Justice Antonin Scalia, much more sensitive to the clash of constitutional values, tended to see these matters as tragedy, in which some valid claims would have to be disregarded.

These cases pit believers against non-believers because the Court has never asked seriously what secular meaning a religious symbol can have. Religious symbols don't just endorse sectarian commitments. Religious symbols also, and just as clearly, stand for a whole set of other commitments.

The national motto, *In God We Trust*, for example, means the God of the Bible for the monotheistic believer. But it also means that we live in a trustworthy universe and not in chaos. That is the reason why John Dewey, not himself a religious believer, never gave up the word, God.

Those Ten Commandments displays that so often end up in court remind the religious believer that God is the foundation of human law. But they also proclaim that law must serve Truth. They echo Dr. Martin Luther King Jr.'s teaching that the arc of the moral universe bends toward justice. These displays are as much a rebuke to value-free originalism as they are to materialism.

Upholding religious imagery for its common, secular meaning is not bringing back the much derided “ceremonial deism,” which claims that religious symbols no longer have religious meaning. Nor is it the sanitized claim that religious imagery symbolizes a “religious heritage,” as if religion is now just a museum trip.

It is the claim instead that the real division in this country is not between religion and non-religion, but between those who see meaning and purpose at the heart of the universe and those who do not. Religious symbols communicate very well on this level to both believers and non-believers.

America is well on its way to becoming a secular society. The question is, what kind of secular society are we going to be? The opioid crisis, the spike in suicides, the general hopelessness and anger in American society, strongly suggest that our secularism will be nihilism. We will just have to get used to the idea that we are alone in an indifferent universe.

But there is another possibility. We can be secularists who still embrace transcendent norms. Many naturalists are experimenting with that kind of secularism.

Government should not be neutral with regard to the question of meaning. It should endorse cosmic purpose. It should proclaim hope. Religious symbols are not the only way to do that, but they are one way.

Any judicial decision in favor of religion versus non-religion will only be temporary. It will ensure that some future secular majority will insist on a naked public square. But a decision that fills that public square with common meaning for all of us will endure.

The Justices have a choice. They can participate in, and further, our divisions or they can help us find common ground and healing. It depends on how they rule in favor of the cross.

Title: The Two Party Lies that Fuel Political Alienation in America

Date: 2019-03-24T06:52:00.003-04:00

3/24/2019—The title refers to the fundamental lie at the heart of each political Party coalition in America. These lies make it impossible for either Party to conduct open inquiry into our situation. Thus, politics becomes unreal.

If you live by a lie, you die by a lie.

My friends would recognize the Republican Party lie—human caused climate change is not happening. Thus we don't need to take any radical action to forestall it.

A lot of Republican politicians know this is untrue. They know climate change is happening and is dangerous, but they pretend that there is time to do something about it. So they can live with themselves.

But some people I have met aggressively deny the facts. They have some theory about false data showing warming or about sources of the change other than human produced greenhouse gases. Or, they claim that the consequences will not be that bad.

They don't trust the people bringing the news of climate change—the UN, environmentalists, scientists, etc.

As readers of this blog know, I am not one to pretend to know much about science. If a scientific consensus tells me there is liquid water under the surface of one of the moons of Saturn, I just accept it. How would I know?

Similarly, although I can see warming in my own lifetime—very significantly so (in Pittsburgh, below zero temperatures are now rare while they were more prevalent in the 1980s, when I arrived here)—if scientists told me this was just a temporary cycle, I would accept that. They tell me it is climate change and I can see that is dangerous if true.

There is a reason for this lie. The Republican coalition is strongly individualistic. Climate change is not. The Republicans honor private property. Climate change says no one is an island. Cutting down your tree affects me (so does the oxygen cycle).

But no thinking person can easily be a Republican given this lie. Worse, there is no real pushback. There is no institutional presence pushing for action on global warming in the Republican coalition.

The lie on the Democratic Party side is simpler. It is that human life does not begin at conception. At least here there is no serious scientific debate. When else could my life begin but at my conception?

The problem for the Democrats, of course, is abortion. Many women feel that they need abortion to be a legal option to live their lives with any kind of autonomy. Capitalism teaches that we are free to make money independent of others. Pregnancy puts the lie to that assertion.

Liberal theory says that we are free to make our own decisions. Pregnancy ends that too. Pregnancy is dependency.

Plus, society is sexist. The consequences of pregnancy fall practically totally on the woman and hardly at all on the man.

So, abortion is felt to be an absolute necessity.

I get that since I am surrounded by it.

But you still cannot get to freedom by a lie. Human life begins at conception. So the only honest thing to say, as Catharine MacKinnon has said, is that despite the biology, the law has to be that protected life begins at birth. That is an honest statement. Brutal but honest.

I can never make up my mind on what the law of abortion ought to be. Certainly where the health of a mother is threatened by the pregnancy, abortion should be legal. And I would interpret that very broadly.

But that is not really the issue. A healthy young woman with bright life prospects is just not ready to have a child. She has no interest in the man with whom she had sex. And she is pregnant. The life she wants is over if she cannot get a legal abortion. More to the point, she will get an illegal one if she has to and that will threaten her life.

Life begins at conception is the truth. It doesn't tell you that the morning after pill should be legal or not. As they say, biology is not destiny. These are social judgments.

Anyway, those conversations will never happen until that truth of human life's beginning is squarely and honestly faced. But that is not going to happen anytime soon.

In defense of the Democratic Party, unlike the situation with climate change, there is something of a pro-life faction. My Senator, Bob Casey, is one of its leaders. But it is certainly not a nationally significant group.

Title: When Cynicism Came to the West

Date: 2019-03-31T06:55:00.003-04:00

3/31/2019—Peter Sloterdijk, the German philosopher, wrote in *Critique of Cynical Reason* in 1987—1987!—that cynicism came to the West through the Enlightenment’s critique of religion: “I maintain that this enlightenment theory of religion represents the first logical construction of modern, self-reflective master cynicism.” That critique had two parts. Ordinary people believed the myths and constructions of religion and tried to live by them. Political and religious leaders, and philosophers, on the other hand, did not, and used these religious teachings to keep themselves in power and enforce an oppressive status quo. If you listen hard enough, you will hear in this critique the very way we today treat our opponents. Pro-life critics talk about Planned Parenthood being in it for the money. Representative Omar’s comment about the Benjamins can be put there, too. Roberto Unger once criticized this kind of cynicism as failing to capture the consciousness of people we claim to be describing and understanding. We may think they are fooling themselves, but they undoubtedly believe much of the things they say. It may even be that they don’t act consistently with the beliefs they profess. But even that is a long way from the bitter cynicism of the critique. And it suggests projection by the critic. After all, says Sloterdijk, the one who sees such cynicism is the master cynic. Does this mean that the critic does not believe in what he or she professes?

Title: The Universal Christ

Date: 2019-04-07T06:16:00.000-04:00

4/7/2019--I wonder sometimes why my Christian and Jewish friends don't live fuller, more meaning-filled lives. After all, they believe in a wonderful reality of hope and love that I don't inhabit. Or don't inhabit fully. Richard Rohr's book, *The Universal Christ*, is an introduction into everyday mysticism that attempts to capture just such experiences. We can be on the bus and suddenly we become aware of the presence of God--aware of a hidden depth of reality right there. The process philosopher Alfred North Whitehead taught that we were always perceiving God but that religious experiences were just that constant awareness occasionally coming into conscious awareness. The point of hallowed secularism--this blog, my book, my hope for the future--is that this consciousness of the depth dimension of life, as described by Rollo May, could be a common inheritance. Secularists just don't tend to talk about these things. That is part of the reason that secular life is so flat and unsatisfying. You need mystery and depth to live. Rohr is a panentheist. I am seeing myself more and more as that. Here is a review of Rohr's book.

4/14/2019--I will be speaking at Elon Law School in September--see events on the side. The occasion is a law review symposium on judicial independence at Elon on the anniversary of the Judiciary Act of 1869 that set the number of Justices on the Supreme Court at nine. It is a well-timed event, since calls for Court-packing are only getting louder every day. As readers know, I am appalled by such calls. But they contrast strangely with what is going on with the Federal Reserve. Donald Trump is packing the Fed with hacks--or trying to. But no one says, well, there are Trump Board Members and Obama Board members. There are, but people are willing to defend the idea of independent Fed decision-making. Not so with the Supreme Court. Here, in principle there are only influences. There is nothing objective or scientific about the underlying matter--no need for actual expertise. For the Court, it's just, which side has a majority. There is a lot one could say about this. Money is the most important thing. Capitalism is our main occupation. All of the nominees for the Court are competent, whereas, some of these Fed nominees or potential nominees are unqualified altogether. But in terms of nihilism, the conclusion is that economic performance is not a value whereas justice is. And values are subjective. Even people who would prefer a different tradeoff of unemployment and growth versus inflation don't want a President to have any say. They don't want to change the number of Board members to get their way. The reason is that they figure that any qualified member will have the same basic goals. So, why is this not the case for the Court? Dr. King said the arc of the moral universe bends toward justice. Brown was a unanimous opinion. The Court ended holding American citizens as enemy combatants without charge 8-1. Aren't there principles of justice as obvious and powerful as any theories of economics?

4/19/2019—When I first voiced frustration over the conception of God prevalent in every synagogue I ever attended, my friend and teacher, Robert Taylor, told me to “translate” this kind of God language into something more believable. But over time I just could not do it. We find today in the Settler movement in Israel exactly the danger of a conception of a God who can do something like give somebody else’s land to me. Many settlers say that God gave Judea and Samaria to the Jewish people and so it is their land and Palestinians who live there have no rights. But this is not just the view of theologically unsophisticated modern people. The great Rashi taught that the Torah begins with the creation of the world to show that God owns the world and can give the land of Israel to anyone he chooses. As Martin Heidegger might say, this is to confuse Being with a Being. This kind of God, who acts in human ways and does things a human being could do if powerful enough and for human sorts of reasons, is exactly the kind of God that Christopher Hitchens made fun of in his book, *God is not Great*. He thought a lot of the conflicts in the world arose from differing views of what that kind of God had actually done. And he was right. But Hitchens was criticized because he was describing an infantile view of God. It was the view of God I was taught and the one that seems to be at work in the Church, he claimed. He called the movement from one kind of God concept to the other, a bait and switch. I am reminded of this because of Easter. C.S. Lewis once said that Christianity was one big miracle. And I agree. The issue for me was always the resurrection, which is why I never became a Christian, though I love Jesus and consider the New Testament to represent the best truth ever written by humans. Of course, Lewis was also not a theologian. And indeed Lewis really did have multiple conceptions of God—he always said that classical philosophy and Christianity were importantly similar. But a real theologian like N.T. Wright makes the point very clearly. The claim of Christianity is that the resurrection actually happened. Not metaphorically. Jesus rose from the dead, his lifeless body reanimated in a new way—and thus physically not in the tomb—and confronted and engaged his followers. But this I cannot accept. Only the kind of God I also cannot accept could do this kind of thing. Even the Gospel of Mark, which is careful not to dwell on the resurrected Christ’s actions, makes absolutely clear that the tomb was empty and that this was the work of God. This is in large part why I left Judaism. The monotheistic tradition insists that God can intervene in physical ways, setting aside the usual laws of the natural world. For many of us, something else, and new is needed. But, to the many millions—billions—of believers, God bless you. And a blessing to you on Easter and Passover.

Title: More Religious Violence

Date: 2019-04-21T15:05:00.003-04:00

4/21/2019--On this Easter Sunday, another reminder of violence perpetrated in the name of religion--this time in Sri Lanka. All religions perpetrate violence these days. I presume the bomber of a mosque in New Zealand on March 15, described as a white supremacist, was a Christian. Hindus oppress Muslims in India. Buddhists in South Asia do, too. But violence perpetuated by Islamic radicals surpasses all the rest. One day Islam will suffer from this violence as Christianity did earlier in world history--by a wave of secularism. No one is going to put up with killing innocent people in the name of God forever. Eventually, whole societies revolt. Chris Hitchens is smiling.

Title: Building Cosmopolis

Date: 2019-04-29T11:12:00.000-04:00

4/29/2019—I will have a conversation today with Michael Shermer, the author of *The Moral Arc*, and other books, for the *Bends Toward Justice* Podcast Series. Michael is a ferocious critic of irrationalisms of all kinds, right and left, from climate change denial to anti-vaccine people. But Michael does have a particular critique of religion, which he repeatedly emphasizes. From the perspective of doing something about irrationalism, this inordinate concern about religion is really counter-productive. There is so much good work about the meaning of God that does not involve miracle or any other interference with the laws of nature discovered by science—I am thinking here of David Bentley Hart, for example—that you have to ask someone like Michael, why pick a fight? This leads to a larger question—how does someone like Michael actually engage irrationalism? I hope to ask Michael about Bernard Lonergan, the Canadian Jesuit who died in 1984. Lonergan was the author of, among other books, *Insight and Method in Theology*. Lonergan was very interested in the kind of decline that we are experiencing now. He suggested that part of the response has to be cosmopolis, which is discussed here. Mark Miller describes cosmopolis as “a redemptive community that would motivate people on a cultural level instead of attempting through economics or politics to impose new social structures.” This community is not one that occupies a particular geographic area or is composed of any one profession or discipline. It is a loose formation of people from different walks of life who all see and confront the decline that is all around them. Cosmopolis differs from the current opposition movements against President Trump. It does not have a program in that sense. It does not look for redemption from any such quarter. Its main focus is on the clarity of thinking. Even that, however, is a misleading formulation because, for Lonergan, thinking includes a form of life in Wittgenstein’s sense. It is as much a matter of character as of cognition. One could say that only a certain kind of person in a certain social context is really adequate to the emergency in which we find ourselves. My question to Michael is, how to build cosmopolis? I don’t believe that the current form of criticism that Michael practices helps us get there. Dr. King was a person who could build community. Even if the moral arc is entirely a human creation, it still requires community. Secularism is really bad at this. But religion is really good.

Title: Why Study Talmud?

Date: 2019-05-04T09:51:00.004-04:00

5/4/2019—I'm reading a book at the suggestion of a friend, if all the seas were ink, by Ilana Kurshan. I'm only on page 42, but it is a kind of life affirming memoir of recovering from a bad divorce through a spiritual practice. (Think Eat, Pray, Study Talmud). The thing not addressed, at least not yet, is, why study Talmud? I mean, why Talmud—that great compendium of Jewish learning. Kurshan notes the practice of daf yomi—learning a page of Talmud a day—as a kind of communal discipline. Jews everywhere are doing the same thing. But nothing she tells us about what she is learning seems intrinsically enlightening. So, of all things she could do, why study Talmud? I believe there is an answer to that question. But let's set a few things straight. One does not study Talmud to learn Jewish law, that is, to learn what to do in terms of keeping the law. First of all, the Talmud is not just about legal issues. (One debate that creates a set piece in the book is the dispute over whether the line in the Bible about the Israelites missing free fish in Egypt referred to food or sex). The Little Talmud was created hundreds of years later, when the authorities decided that the Talmud should have been about law. So, they took out everything else. Second, even the disputes that are about law—that is, what to do to fulfill the commandments—are often not resolved. As any lawyer knows, you don't leave legal disputes unresolved. Nor is Talmud study about keeping the Jewish people together. That is not what the rabbis were doing. So, what were they doing? They were drawing closer to God. So, you study Talmud in order to draw closer to God—at least if you are being faithful to the rabbis who wrote the Talmud. What in the Talmud allows one to draw closer to God? Not the content of the rules, which are never clarified, but the disputes themselves. The Talmud is about disputation. How could disputes draw people closer to God? Jesus would say the opposite would be the case. The Talmud is a celebration of rationality itself. A celebration of giving reasons and making arguments. God delights in these arguments. On one level, that sounds like a celebration of cleverness and Jesus would be right that this leads to conflict and anger. But now imagine that reality is rational—think Hegel. The effort to think clearly then mirrors reality—the Talmud is a human imitation of ontology. The rational is the real. It is the lifestyle of the academies, not their “results” that form a holy life. This means, ironically, that study of Talmud is not the main thing. Study is the main thing. A rational life. Law school itself could be Talmudic life. Should be Talmudic life. The difference is the lack of holiness in law school. It used to be thought that the common law reflected God's blueprint for humanity. That is the Talmudic spirit. A law school could be a new academy.

Title: What Impeachment and Court-packing Have in Common

Date: 2019-05-15T04:51:00.002-04:00

5/15/2019--I find myself in conflict, or at least tension, with the progressive wing of my Party. There, the support for both impeachment of President Trump and adding to the number of Justices on the Supreme Court is pretty strong. I oppose both, as do most members of the Party, for now anyway. For others in the Party, the lack of support for impeachment and Court-packing is probably pragmatic. The voters in general don't support either move and pursuing either allows the Republicans to frighten moderates with the prospect of radical policies if the Democrats win in 2020. Plus, the evidence of collusion was not there and the Court has not yet done anything dramatic--like overruling Roe. That is certainly subject to change. For me, opposing both is more a matter of principle. Impeachment essentially for what the voters already knew strikes me as anti-democratic--an attempt to undo the choice the voters made. (yes, I know Trump lost the popular vote, but he ran to win States, not the popular vote, because that is our system. It is not fair to charge him with losing a race that was not run.) Court-packing is an attack on the idea of a rule of law. If a particular Justice is doing something outrageous, the Justice can be impeached and removed. But adding numbers to change results treats the Supreme Court as just another political branch. (Yes, I am aware that that is how some Republicans are treating the Court--see Randy Barnett's tweet about Obama judges and Trump judges). But there is even a deeper reason I oppose both and it is the reason that the progressives support both at base. Impeachment and Court-packing enable Democrats to rule without having to convince the country that the policies Trump is pursuing are bad. Both are anti-democratic in the sense of democracy as a rational contest of ideas. People on the Left have become convinced that you can't change the minds of people. Lee McIntyre put his finger on the problem in his recent piece about the flat-earth position--pointing to headlines like, Why Facts Don't Change People's Minds. But McIntyre was promoting debate. He was suggesting a methodological turn in defending science. He was definitely not giving up on persuasion grounded in truth. McIntyre is arguing that claiming to have the truth in a skeptical age--about climate change or even the shape of the Earth--is subject to "arguments" about proof. Better to ask, honestly, what kind of evidence would persuade the person you are talking with--and talking with is a big part of this. What would convince you that vaccines don't cause autism? If the answer is that nothing would, then we can all see the absurdity of the position. Otherwise, maybe we, or some of us, can move to real exchange. McIntyre is pointing to the kind of hard work that impeachment and Court-packing seek to avoid. His is the model to follow. McIntyre was not writing only about science, but about political life.

Title: The Universe Doesn't Care About Your Purpose

Date: 2019-05-19T06:22:00.000-04:00

5/19/2019—Tomorrow, I will be interviewing Joseph Carter for the Bends Toward Justice Podcast Series. He wrote the piece in the New York Times in 2017 entitled *The Universe Doesn't Care About Your Purpose*. Carter is not one of the hard-edged atheists types who disdains the human need for purpose. But he does describe the sense of significance that we have as an illusion. Aside from the truth of his view of things, or even what truth here means, there is the question of the effect of such a belief on our culture. Is this view responsible for the way we are with each other right now? Does it lead to anger and despair? Let me point to Camus, who came to believe that the answer to that question is yes. Here is a quote from Camus' Notebooks, which I found in an 2013 essay by Claire Messud in the New York Review of Books. Camus is at a gathering with Koestler, Sartre, Malraux and Manes Sperber, when he said the following: "Don't you believe we are all responsible for the absence of values? And that if all of us who come from Nietzscheism, from nihilism, or from historical realism said in public that we were wrong and that there are moral values and that in the future we shall do the necessary to establish and illustrate them, don't you believe that would be the beginning of a hope?" Actually, I'm not sure it would matter what certain people say. That might be Camus' view of the power of the intellectual elite in France. But if people again became convinced... .

Title: King Trump

Date: 2019-06-01T07:14:00.000-04:00

6/1/2019--Now with the idiotic threats against Mexico, which, by the way, is not responsible for policing America's border. We are. This latest tariff threat roiled the markets again, which by the way, are about flat versus inflation since the tax cuts went into effect on January 1, 2018. The frustrating thing about the latest tariffs is that they come on top of nonsense threats against Japan, Canada and Europe. There is no strategy here. Trump's quite legitimate effort to force the Chinese to play by the rules is undermined by all these trade distractions. Why not enlist everybody against China? Basically, we are seeing the results of too much Presidential power. Why does Trump get to make economic policy at all? He is not Congress. He is abusing his statutory authority since he is often invoking non-existent threats to national security--Canadian products?--but obviously that authority was too broad to begin with. Have Democrats learned anything? It's doubtful. Liberals are pretty bad about admitting mistakes. They could learn a lesson from Ross Douthat in that regard. We were fine with Obama making policy by himself when Republicans were obstructing and we agreed with the policies. Now nobody agrees with the policies, because there is no policy with Trump--just the latest rant and whim. But if authority has not been ceded to the President, Trump could not be doing so much damage. Where is the Democratic Party candidate for President who runs pledging to return power to Congress? That is the candidate to support.

Title: Babbling Barr

Date: 2019-06-05T06:27:00.000-04:00

6/5/2019--It needs more than I can write at the moment, but the extraordinary words of Attorney General William Barr must at least be noted. Here is more or less the whole quote: In an interview aired Friday on "CBS This Morning," Attorney General William Barr explains why he opened an investigation into the origins of the Russia investigation. He doesn't say what the evidence is, but Barr tells CBS News legal correspondent Jan Crawford that there is evidence that makes him believe senior government officials may have acted improperly to authorize surveillance of President Trump's 2016 campaign. He says that led to "spying" on the campaign. He said the hyper-politicized nature of politics today is a danger to longstanding institutions and he took the job of attorney general because he is at the end of his career. "Nowadays, people don't care about the merits or the substance. They only care about who it helps, whether my side benefits or the other side benefits. Everything is gauged by politics, and I say that is antithetical to the way the Department [of Justice] runs, and any attorney general in this period is going to end up losing a lot of political capital," Barr said. "And that's one of the reasons I decided I should take [the job] on. At my stage in my life, it wouldn't make any difference." "I'm at the end of my career," he said. "Everyone dies. I don't believe in the Homeric idea that immortality comes by having odes sung about you over the centuries." "In many ways, I'd rather be back at my old life, but I love the Department of Justice, I love the FBI, I think it is important that in this period of intense partisan feelings we do not destroy our institutions."

***** What does he believe immortality consists in? Clearly, he believes he is doing the right thing and that his critics are wrong. He does not expect reasoned discourse. So to do the right thing means to be criticized. But this situation is not new. It is the sort of situation John F. Kennedy described in Profiles in Courage. Except of course that Barr is not giving up anything. He is not being fired. He is remaining Attorney General. He is defending powerful people and making no sacrifice at all. He is just whining. Barr doesn't have the faith to say, "I am doing the right thing and history will recognize the truth of that. So my conscience is clear." Instead, he invokes extraordinary nihilism--we all die and that is that and so what difference does it make what people think of me? What a juvenile thing from an AG.

Title: The No-Prosecution Pledge

Date: 2019-06-08T06:36:00.000-04:00

6/8/2019--Last Wednesday, before Nancy Pelosi's reported statement that she wants to see President Trump in jail, I sent the following email to Susan Matthews at Slate in a pitch for a piece. Dear Susan: The best thing Donald Trump has done as President is something he consciously refrained from doing--he did not prosecute Hillary Clinton. Not putting your defeated opponent in jail is one of those norms that allow American democracy to work. If you feel there was nothing to investigate, you have more confidence in the Clinton Foundation than I do. Each Democratic Party Presidential candidate should take a pledge now not to prosecute Trump if elected. Democrats like to quote How Democracies Die about Republican norm violations undermining public life. So, it would be tragic if Democrats violate one fundamental norm that the Republicans did not trash. Such a pledge would reassure moderate voters without surrendering any economic or environmental policies. So, not only is the pledge the right thing to do, the democratic thing to do, it is also the politically smart thing to do. Nor would the pledge give up much. Donald is capable of pardoning himself his last day in office, which might work. I propose 2000 words for Slate arguing for the No-Prosecution Pledge. I know it would get attention. I could have it to you in a day or two. ***** No response, which is how things generally go for me. But the point remains and isn't going anywhere. The way you save democracy is by starting to save it. #nopros prosecutionpledge The alternative will poison American politics like nothing else.

Title: The Age of Pessimism

Date: 2019-06-15T10:44:00.000-04:00

6/15/2019--As only he can, David Brooks gushes on twitter over a column today in the New York Times by Roger Cohen about Richard Holbrooke. Holbrooke is the subject of George Packer's book, Our Man. Cohen celebrates Holbrooke as a man who believed in America and whose pushed intervention in the Balkans may have saved 100,000 lives. Holbrooke dies sadly neglected by President Obama, whom he tried to serve. The episode does no credit to Obama. But the real question is, who is Holbrooke? Cohen paints him as mean, vain and empty--almost a higher class version of Trump. And Cohen fails to draw the obvious connection. The subhead is, This is an age of Pessimism. But America can still remake, redeem and rescue. But if America is led by mean, vain and empty leaders... .

Title: What the Supreme Court Should Have Said, But Didn't, in the Maryland Cross Case

Date: 2019-06-22T05:24:00.006-04:00

6/22/2019--This is the [op-ed](#) I wrote last March for the Washington Examiner in the Cross Case decided this week. The cross stayed, as predicted. There was no majority opinion on how to approach religious imagery in the public square. (This is a repeat of the March 21 blog entry since this is the time people are interested in the case.)

The World War I memorial cross in Bladensburg, Md., isn't going anywhere. That was clear from the oral argument in *The American Legion v. American Humanist Association*. The Supreme Court may even be unanimous that the cross can stay on public land.

That is not surprising. The cross is an almost hundred years old WWI memorial without further religious reference. Crosses have symbolized the dead of the Great War since John McCrae's epic 1915 poem, "Flanders Fields."

What matters is how the cross stays — do the justices add to American divisions, or do they begin the process of healing?

Thanks to President Trump, there is now a pro-religion majority on the court. That majority could abolish the requirement of a secular purpose in Establishment Clause cases — the Lemon test — and substitute a no-coercion test. This would be seen as a big win for one side in the culture wars.

The treatment of religion as an either-or proposition goes back a long way. The legal theorist Ronald Dworkin once asked whether America would be a religious country tolerating non-belief or a secular country accommodating believers. This is like asking who's the real American.

These cases pit believers against nonbelievers because the Court has never asked seriously what secular meaning a religious symbol can have. Religious symbols don't just endorse sectarian commitments, after all. They can just as clearly stand for a whole set of other commitments.

The national motto, "In God We Trust," for example, certainly refers to the God of the Bible for the monotheistic believer. But it also means that we live in a trustworthy universe and not in chaos. That is the reason why John Dewey, not himself a religious believer, never gave up using the word "God."

Those Ten Commandments displays that so often end up in court remind the religious believer that God is the foundation of human law. But they also proclaim that law must serve a higher truth. These monuments reinforce Dr. Martin Luther King Jr.'s teaching that the arc of the moral universe bends toward justice. These displays are as much a rebuke to value-free originalism as they are to materialism.

To uphold religious imagery for its common, secular meaning is not to bring back the much-derided "ceremonial deism," which claims that religious symbols no longer have religious meaning. Nor is it equivalent to the sanitized claim that religious imagery symbolizes a "religious

heritage,” as if religion is now just a curiosity for museums.

It is rather that the real division in this country is not between religion and irreligion but between those who see meaning and purpose at the heart of the universe and those who do not. Religious symbols communicate very well on this level to believers and nonbelievers alike.

America is well on its way to becoming a secular society. The question is, what kind of secular society are we going to be? The opioid crisis, the spike in suicides, the general hopelessness and anger in American society, point toward a secularist nihilism. We will just have to get used to the idea that we are alone in an indifferent universe.

But there is another possibility. We can be secularists who still embrace transcendent norms. Government should not be neutral with regard to the question of meaning. It should endorse cosmic purpose. It should proclaim hope. Religious symbols are not the only way to do that, but they do represent one way.

Any judicial decision in favor of religion versus non-religion will only be temporary. It will ensure that some future secular majority will insist on a naked public square. But a decision that fills that public square with common meaning for all of us can endure.

The justices have a choice. They can participate in, and further, our divisions or they can help us find common ground and healing. It depends on how they rule in favor of the cross.

Title: All the Justices Get Religion Wrong Again

Date: 2019-06-23T06:18:00.001-04:00

6/23/2019--One secular critic wrote that at least the Supreme Court in *The American Legion v. American Humanist Association* case did not accept the idea that a cross can stand as a symbol for all the dead, including Jews and other non-Christians and nonbelievers. That idea was the great threat. The fight over the cross became a substitute for fights over the Pledge of Allegiance. It was as if the cross would be forcing a dead nonbeliever to endorse Christianity. So, why not just put up symbols that everyone accepts? Because they don't have power. The great thing about the endorsement test, now on its way out, is that it asked the right question. Is government endorsing religion? If government is endorsing something else, the Constitution is not violated. And the reasonable observer is the one to ask. People don't realize that the reason we are filled with despair and anger is that we no longer have a story that promises peace. Religious stories promise peace. But many of us, and the culture as a whole, no longer accept them. And that is true of the religious people too. They no longer accept their own stories, which is why so many religious people are filled with anger and despair too. When government uses religious symbols to tell stories of peace, the symbols should be constitutional. And if they are using religious symbols because they are familiar to everybody, that should not be a problem. The reasonable person has to see that the government is not endorsing the sectarian aspect of the religious symbol but its attempted universal message.

Title: Sohrab Ahmari Doesn't Believe in God

Date: 2019-06-27T05:33:00.000-04:00

6/27/2019—A lot has been written about an essay in First Things last May by Sohrab Ahmari. In the essay, Ahmari argues that the civility exhibited by National Review writer David French is inappropriate given the stakes in the culture war. Ahmari also says that cultural renewal is not enough to win back the culture war—"it doesn't work that way." The reason I say that Ahmari does not believe in God, aside from one revealing aside when he accuses French of "an almost supernatural faith" in culture—as if supernatural faith were a bad thing—is that he does not take seriously the idea that God is the Lord of history. In the context of losing the culture war—drag queen readings in the public library is the one that sets Ahmari off—there are two options for someone who believes that God is in charge. The first option is the route of Gamaliel in Acts—if this is from God, we must understand it and not oppose it. If it is not from God, it will pass away. Since abortion remains a moral concern for Americans while same sex marriage does not, maybe God has done a new thing. Maybe same sex marriage is God's will. Many Jews hated what the new Jesus movement stood for (also a Jewish movement, of course)—they thought it violated traditional morality. The second option is to assume that the people I am contending with are sinning and will be punished along with our whole society. This is Jesus addressing the women of Jerusalem—don't weep for me, but for yourselves and your children. The days are coming when people will say it is better not to have been born. If Ahmari believed this, he would say to French, your mistake is that you do not love your enemies. If you did, you would do everything to save them from God's wrath. You would not be held back by the secondary virtue of civility. What Ahmari believes is that God is powerless and irrelevant. It is all up to Ahmari. He is Lord of history. So, he decides what must be done. We are all atheists now. We are all nihilists now. This is the time of the will to power.

Title: All Our Problems are Related

Date: 2019-06-29T10:26:00.001-04:00

26/29/2019—When you're a hammer, everything is a nail. I'm that way about nihilism, which I blame for all our problems. Nihilism is closely related to Hallowed Secularism, because nihilism is what happens to a believing culture when God dies and you don't develop hallowed secularism. So, today in the New York Times, Roger Cohen laments the decline of the liberal idea—basically, the American post-war consensus of democracy, market capitalism and the rule of law. But Cohen does not understand what happened. It was not erosion, though there was some of that. Americans no longer believe in the universe. The liberal idea was founded on faith. Not just in God, but in the path of history, the reasonableness of people and a benevolent universe. When, instead, history is contingency, people are flawed in their thinking, and the universe is just forces, all that is left is the will to power. Then power is serving only oneself. That is our decline. It would be stupid to be magnanimous in a reality like that. Same issue with Bret Stephens' column—nothing for him in the Democratic debates. Why? They are all narrow identity politics. But that is what happens when universal ideals decline. You are left with identity and tribe. Try truth and justice instead. That's what we used to have. Dr. King even believed that the racist would be redeemed. Try telling that to Senator Harris.

Title: Happy Fourth

Date: 2019-07-03T23:06:00.003-04:00

7/4/2019--No postings until next week. Have a happy holiday.

Title: Adam Gopnik vs David Frum

Date: 2019-07-14T07:06:00.003-04:00

7/14/2019—I haven't read the book, *A Thousand Small Sanities: The Moral Adventures of Liberalism*, by Adam Gopnik, but if it is as tedious and superficial as David Frum's review in the *New York Times*, the book won't be helpful. Anyone who praises "the liberal heritage of free speech, rule of law, scientific inquiry and individual conscience" is certainly on the right side of things. But Gopnik sounds incapable of fundamental analysis. I suspect this is because, as an atheist, he has no feel for religious experience and truth. See below. Take this example from the book--"The basic American situation in which the right wing wants cultural victories and gets nothing but political ones; while the left wing wants political victories and gets only cultural ones. ... The left manages to get sombreros banned from college parties while every federal court in the country is assigned a far-right-wing activist judge." Now this makes no sense. Much of what the Left wants from the courts is also cultural—not all but much. Is forcing the cake maker to make a cake for a same sex wedding political or cultural when cakes are freely available? How about contraception coverage by a religious employer when contraception is freely available elsewhere? Many of our political controversies are about cultural supremacy. The right-wing judiciary is a threat to unions and that is not cultural. But do most progressives care all that much about that? Unfortunately, no. Gopnik's fear of truth is revealed in this comment about dogmatic religion—"If you think you have unique access to the truth, why wouldn't you be intolerant of those who reject that truth?" Revelation is not why people are intolerant. For that matter, truth is not why people are intolerant. Those religious traditions were the source of our respect for conscience—as well as the source of the Inquisition. It is a mixed bag. (To be fair, Frum sees that this applies as well to the secular Left.) Intolerance arises from the content of the truth one believes she possesses. Dr. King taught that means are ends in the making. That is one basis of tolerance. I don't do everything I can to defeat error. But no one is or should be tolerant of error as such. If I respect you as a person, I try to persuade you of the truth for your own sake. Out of love. I don't persecute you. And I only act against you if you are harming others. Spreading your error is not harm because I believe your error will not stand up to shared investigation. In the end, truth will prevail. Thus, truth is the not a threat to tolerance, but its source. Think Gamaliel in the Book of Acts. There was no need to act against the new Jesus movement. If it was from God, it should not be opposed. If it was not, it would fail.

Title: Justice Stevens R.I.P.

Date: 2019-07-20T11:05:00.003-04:00

7/19/2019—There are a lot of aspects to Justice Stevens legacy. Maybe most revealing of the rule of law is the Scalia/Stevens opinion in Hamdi. Nothing of Obama judges and Trump judges there. That opinion is to me the high point of the career of Justice Stevens. The doctrinal low point was this line from the opinion for a unanimous Court in Jones v. Clinton, the decision that allowed the Paula Jones litigation to go forward and led ultimately to Clinton's impeachment: "The litigation of questions that relate entirely to the unofficial conduct of the individual who happens to be the President poses no perceptible risk of misallocation of either judicial power or executive power." That was stupid because cases like Paula Jones only go forward and are only financed because someone is President. They are brought by political enemies. To me, the real low point, however, was Justice Stevens' concurrence in Thornburgh in 1986, which struck down parts of Pennsylvania's abortion regulations. There, Justice Stevens called the view that a fetus is a person "a religious view," as if no one could think so except for religious reasons. He was probably the most anti-religious Justice in the history of the Supreme Court.

Title: Strong Reactions to Column on the No-Prosecution Pledge

Date: 2019-07-26T08:44:00.001-04:00

7/26/2019--It will be hard to face down the lock him up segment of the Democratic Party. My column in Politico set off a twitter storm, which of course was my purpose. I am trying to put out the case against this sort of thing. The three things that the critics do not see. I am not proposing anything new. Americans just don't go after defeated candidates, especially for President, especially using the criminal law. Second, Democrats would and have used dirt on political opponents and Hillary would certainly have done so in 2016. Finally, President Trump may have wanted to go after Hillary, but he did not do it. You have to judge him on what he did, not on what he wanted to do. I should also say that if you shut down an investigation out of honest belief that you are innocent and it is within your authority to shut it down, that probably is not obstruction of justice. So, how in the world could the President be prosecuted anyway. And don't get me started on the pardon power. So, a little real world publicity. But will it do any good?

Title: America Needs a Substitute for God

Date: 2019-08-08T05:12:00.004-04:00

8/8/2019—The genre that is needed today is an answer to the question, *What Has Gone Wrong and What Can We Do About It?* This was the subtitle of the book, *Democracy in America*, by Benjamin Page and Martin Gilens. But it is the question lots of people have been asking since Donald Trump was elected President. But it's obvious that whatever went wrong predated Trump and in fact paved the way for such a person to be nominated in the first place. Furthermore, if we can imagine a world without Donald Trump, it is not clear that the hatred in American politics will be healed by voting him out of office. So, if what went wrong was not Trump and if what we can do is not just get rid of him, what did go wrong and what can we do? What went wrong is that God died. People, especially on the American Left, have a very hard time accepting that diagnosis. But if we think of the pathologies of American life, from baseless hatred, to the death of truth, to the deaths of despair in the opioid epidemic, to distrust of science—and on and on and on, we can see that they are mostly what you could call spiritual matters. If nihilism is the lack of a story that answers the question, what is this all about?, we have fallen into nihilism. Anyway, grant me that for the moment. Grant me that there is no longer a culturally shared, beneficent and reliable universe that works for our good. When there was, when Dr. Martin Luther King, Jr., could remind us that the arc of the moral universe bends toward justice, we could hope to one day to join with our opponents to jointly serve truth. As he did. If this is the problem, what is the solution? You can't go home again. The God who could deliver all that is gone for many people—too many for that story to serve as the foundation for our civilization. And many of the people for whom He is gone still go to church. That is why so many churchgoers are angry at the world, rather than grateful for Christ. But just because God is dead, it does not follow that the beneficent universe of right and wrong died with Him. All we need are new sources for meaningful human life. Meaningful here means "meaning filled." It used to be said, if you want peace, work for justice. Now we can say, if you want healthy politics, work to ground meaning. Those sources are available. More on that.

Title: Here is the column on mass shootings and our spiritual crisis

Date: 2019-08-11T06:49:00.001-04:00

8/11/2019--the column appeared today in the Pennsylvania
Capital-Star.

Title: What Would “Bends Toward Justice” Mean to Doris Lessing?

Date: 2019-08-15T00:53:00.004-04:00

8/15/2019—I am the moderator of the Bends Toward Justice podcast series, in which I talk to people about the teaching of Dr. Martin Luther King, Jr., that the arc of the moral universe is long, but it bends toward justice. It is pretty clear what Dr. King meant by this, at least in a general way. He did not invoke God per se, but something good is in charge of history. Progress is slow and not linear, but it does happen. Usually, anyway. The question for the podcast is what this means today to people without Dr. King’s strong religious faith?—which is most people. So, enter Madelaine Schwartz, reviewing Lara Feigel’s book about Doris Lessing: *Free Woman*. (NY Review, 9/27/2018). Feigel uses Lessing’s work, *The Golden Notebook*, to introduce themes of life and liberation. Here’s the relevant quote from the review: “Yet Anna believes that ‘every so often, perhaps once in a century, there’s a sort of—act of faith. A well of faith fills up, and there’s an enormous heave forward in one country or another, and that’s a forward movement for the whole world. Because it’s an act of imagination—of what is possible for the whole world. In our century it was 1917 in Russia. And in China. Then the well runs dry, because, as you say, the cruelty and the ugliness are too strong. Then the well slowly fills again. And then there’s another painful lurch forward.’” This is maybe more detailed than Dr. King had in mind. And Dr. King would have included particular nations—he certainly expected more justice in the US. But Lessing’s observation is good, because it points out that progress in one place in the globe inevitably affects everyone else. There is something irresistible about justice. Also, Lessing is helpfully pointing out that it may be more imagination than justice. First we have to imagine a future before a future can occur.

Title: How Unfriendly Is the Internet?

Date: 2019-08-18T17:29:00.000-04:00

8/18/2019—I don't usually have the experience of getting real pushback on twitter—mainly because no one much reads what I say. But I responded to an anti-gun control tweet last week, mildly pointing out that the column in question had failed to address universal background checks and large capacity clips. The point of the column had been that most gun control proposals would not actually accomplish very much. Well, you would have thought the roof had fallen in. I got so many responses that twitter asked me if I wanted to limit access to my responses to me—I have no idea what that would mean. And there were some angry people. And I did idly wonder if anyone would come by and shoot me. But, mostly it was people vigorously, and none too politely, disagreeing with me and suggesting that I don't know what I am talking about. This was fair game—if you'll pardon the expression—although I had not actually made the arguments people were attributing to me. Lots of people pointed out that "clips" is the wrong word—magazine is what we are talking about. And, indeed, I would not know one from the other. Other people pointed out that I had not read the original column closely enough to notice that the author was a woman and not a man, as my grammar suggested. They were right about that. I had paid no attention and my easy assumption that the author was a man was nothing but sexism. My point in this one, small, example is that although the comments were unpleasant, they were not false and they were not dangerous. I've read much worse actually addressed to me in anonymous letters. It's not the same as what others have experienced, of course. No one harassed my family. No one threatened to kill or rape me, etc. But it is a reminder that some of the vitriol on the Internet really is free speech.

Title: Change Point in the Culture

Date: 2019-08-20T11:05:00.001-04:00

8/20/2019—I have been writing about nihilism so long that I assume everyone knows that this is the fundamental problem facing our culture. But, of course, most people have no idea what nihilism is and why and how it might be a threat—let alone how to combat it. So, the juxtaposition of two op-eds on Monday—one from the right and one from the left—Tucker Carlson and Neil Patel, on the one hand, and Michelle Goldberg, on the other, may mark a cultural shift. We can call them twin diagnoses of nihilism. Carlson and Patel are telling the story of a culture in which “nothing matters”—quoting James Kunstler. Such a culture breeds the despair of the mass killer or the suicide addict. Goldberg is telling the story of a post-truth culture that lacks faith in a rational future, referring to the thought of Peter Pomerantsev. The need for facts is predicated on an evidence based future. Each column exhibits the usual partisan myopia. Carlson and Patel ignore the role of capitalism, because that doesn’t fit their preconceived notions of the problem—the problem with “the jobs they hold” is not that they are controlled by “tech monopolists” but by their bosses. Goldberg thinks the lack of faith in history came from philosophy and ignores the collapse of religion. But they both see the same thing. There are no objective values—there is no source of meaning. Ah, but what do we do about it? The problem has nothing to do with Washington, as such. And there is no way to “get history moving again” without talking about why it stopped moving in the first place.

Title: Would I Help Donald Trump?

Date: 2019-08-24T11:59:00.001-04:00

8/24/2019—Anniversary Day—16 years. Partisanship is an ugly thing. This came up this week with the question, would I help Donald Trump if it would help America? During one of the more erratic week in his erratic Presidency, someone floated the idea of reducing payroll taxes to forestall the possibility of a recession. Now, there are many reasons to oppose doing this, including the fact that this recession threat is sort of self-induced by Trump's ineffectual China tariffs. (Ineffectual in bring a deal). But one normal reason for opposing the idea, that we can't afford it, really doesn't make sense. A recession would increase the deficit far more than a payroll cut would. And the cut would be temporary. Trump quickly withdrew the idea for reasons known only to him. But, I asked myself, would I vote for this if I were in the House? The answer was, maybe not—not just because it would not work but because it might work. If it did, it would enhance Trump's chance of reelection, which a recession would completely kill. Trump is so horrible, that I found myself thinking, maybe the single most important thing is that Trump be a one-term President. So, even at the cost of Americans hurt by a recession, you don't pass a bill to try to prevent it. This is why I say that partisanship is an ugly thing. I used to think the worst thing about Mitch McConnell was his statement in 2010 that "[t]he single most important thing we want to achieve is for President Obama to be a one-term president." But, here I am saying the very same thing. At the very least, it made me understand McConnell better. Even so, it is still hard for me to change my mind, considering all the harm that Trump is doing. Yet, if McConnell was wrong, which he was, I must be too. Defeating Trump cannot be the most important thing.

Title: Is Hallowed Secularism Any Longer the Question?

Date: 2019-08-31T17:37:00.003-04:00

8/31/2019—Since the publication of Hallowed Secularism in 2009, I have assumed that this formulation would be adequate to address the spiritual crisis of this culture. I have not reconsidered this question in light of the current crisis—politics in the age of Trump. I am now not so certain that this is the direction this culture needs to go. What are we now seeing in regard to secularists in America? I don't know where I read this, but some significant portion of the nones say they believe in God but are leaving religious/spiritual issues in abeyance until their lives are settled. This, along with the asserted belief in God unsupported by any institutional, or for that matter, regular, expression, makes me wonder what this group is saying. It now seems to me that their purported belief is just another means of evasion in a culture that is filled with evasion. Hallowed is just not adequate. Maybe what is needed is spiritually disciplined secularism. This would be a secularism especially for the mind. The participants would pledge to engage all of the traditional spiritual issues. In this way, secularism would not be just an avoidance of religion. It would be in fact be a higher level of engagement than most believers experience.

Title: Bends Toward Justice Podcast Debuts This Week

Date: 2019-09-12T05:30:00.000-04:00

9/12/2019—Recent related projects have limited my postings here. There will be announcements about all that in the coming weeks and months. Meanwhile, the podcast series Bends Toward Justice debuts this week, I hope, on Soundcloud. Here are the program notes:

“Bends Towards Justice” is an original podcast created and hosted by Duquesne University School of Law Professor Bruce Ledewitz. The five episode pilot series is available now at <https://soundcloud.com/duquesnelawpodcast>. The podcast asks a simple, but fundamental question—do we agree with Dr. King that arc of the moral universe bends toward justice? The participants in this series provide a variety of perspectives on that question. The goal of the podcast is for the listener to understand what is at stake in this question and to come to a decision.

Episode 1: Introduction to themes in Martin Luther King’s concept that the arc of the moral universe bends toward justice.

Bruce Ledewitz is a professor of law at Duquesne University School of law. He specializes in constitutional law, law and religion and law and the secular. He is the author of *American Religious Democracy: Coming to Terms with the End of Secular Politics* (Praeger 2007), *Hallowed Secularism: Theory, Belief, and Practice* (Palgrave Macmillan 2009) and *Church, State, and the Crisis in American Secularism* (Indiana University Press 2011). Ledewitz received his undergraduate degree from Georgetown University School of Foreign Service and his J.D. from Yale Law School

For Ledewitz, America is a society fallen into nihilism. For many Americans, there are no objective sources of meaning and history has no shape. But nihilism has arisen almost accidentally, out of a failure of the culture to defend truth. This podcast is a first step in challenging our nihilism.

Jesse Francis, who interviews Ledewitz in Episode 1, is a graduate of Duquesne Law School, where he and Ledewitz had an opportunity to explore the implications of nihilism. Francis is an associate in the Dickie McCamey law firm in Pittsburgh.

Episode 2: A conversation with Michael Shermer: Despite the discourse, at present, humanity is kinder and gentler.

Michael Shermer uses Dr. King's image of "the moral arc" to express his view that there is moral progress and that humanity has become better over time--kinder, gentler, more inclusive--and that this does express a truth of the universe. Recent trends that suggest decline are temporary and not an existential crisis in America and the West. The moral universe or right and wrong is real, but is not a metaphysical entity. It is an expression of enlightened humanity. Though not himself religious, Shermer has a great appreciation for what religion has done and does for moral progress. Like all things, religion is not all good or all bad. The issue for Shermer is what beliefs lead to actions that promote the flourishing of sentient beings. Those beliefs need to be encouraged. That overall movement is the moral arc for Shermer.

Episode 3: A conversation with Carter: If the universe doesn't care about your purpose, does that mean life is meaningless?

In 2017, Joseph Carter wrote an op-ed for the New York Times as a graduate student in philosophy at the University of Georgia entitled, "The Universe Doesn't Care About Your Purpose." He wanted to explore the tension between the world of purpose that we see and the scientific reality of mechanistic forces that actually order things.

As a materialist, Carter argues that there are no intrinsic purposes in reality. But, on the other hand, humans need a sense of purpose and the world seems to hold together through the purposes of entities, including humans. Whether our purposes are real or illusory depends on who is asking the question and why. And in the struggle to achieve material fairness for people, it doesn't really matter whether justice is inherent or not. Either way, justice is what we need to be working toward. The fact that purpose is not inherent does not mean the universe is meaningless.

Episode 4: A conversation with Christian Miller: Is character in decline in America?

Christian Miller's work has been concerned for years with human moral character and specifically how we can improve our characters and why it is important for us to try to do so. He sees Dr. Martin Luther King Jr. as also concerned with character and the way in which the character of Americans can be improved to be more in keeping with the ideals and promise of the Declaration of Independence and the Constitution. The elements of character Dr. King particularly emphasized were faith, hope, compassion and courage.

The question for Christian Miller is whether and how these religiously infused characteristics can be transmuted in such a way that they are available to secular society. Without God, it is not necessarily the case that justice will triumph. We even see some evidence that character is in decline in America. But even if there is a God, there is a danger from a misunderstanding of Dr. King's teaching—that we human beings can sit back and wait for the triumph of justice rather than actively pursuing it. Another problem is the moral relativism in the culture, which Miller rejects. Justice and character must be worked at and that will be difficult if we believe that all morality is equal.

Episode 5: A conversation with Tracey McCants Lewis: Will the moral universe bend toward justice?

Tracey McCants Lewis has made numerous contributions to Pittsburgh and the region. She has been a tenured professor of law at Duquesne University School of Law, she is Deputy General Counsel to the Pittsburgh Penguins and serves on the Board of Directors of the August Wilson African-American Cultural Center. McCants Lewis is a leader in the movement for social justice, in recognition of which the Urban League awarded her the Ron Brown Community Leadership Award in 2017. Part of that leadership is her current work at Duquesne Law School's Civil Rights Clinic where, among other things, students provide advice and represent individuals pursuing expungements and pardons.

For Tracey McCants Lewis, Dr. Martin Luther King, Jr., is not just a hero out of history, but a constant and contemporary source of inspiration. When Dr. King taught about the arc of the moral universe, it gave people at that time a sense of optimism and hope. Many of the things Dr. King looked for have come true, though much remains to be done. Some of those good things have even happened in hockey. In his plays, August Wilson exemplifies the seeking of justice that Dr. King was pointing to.

Title: Constitution Day 2019

Date: 2019-09-14T06:21:00.001-04:00

Tuesday, September 17, is Constitution Day. It is a day that Americans celebrate the blessing of constitutional government. But, Constitution Day, 2019, comes at a time of unprecedented breakdown in American public life. Not since the Civil War have Americans been as divided and distrustful as we are today. And, unlike the period of the Civil War, there is no one great issue, the resolution of which might allow a return to normal rule. It is a symbol of our time that the book about politics most discussed today, is *How Democracies Die*, by Steven Levitsky and Daniel Ziblatt. These authors remind us that the threat to democracy almost always comes from within. When we regard preventing political success by our opponents as the most important goal and are willing to sacrifice long-norms of restraint to frustrate that success, democracies die. Unfortunately, that describes the thinking of many Americans today. Constitutional democracy relies on faith in one's fellow citizens. The first amendment protection of free speech reflects the belief that truth has the power to persuade. Equal protection and due process reflect the belief that the majority will treat the minority fairly and with respect. Regular elections reflect the belief that we are capable of self-government. Religious liberty reflects the belief that there is an enduring meaning to human life in which we all share. That is the faith that must be renewed today if the Constitution is to endure. Abraham Lincoln expressed that faith perfectly and simply, in his First Inaugural Address, in 1861, on the verge of civil war. He said, "We are not enemies, but friends. We must not be enemies. Though passion may have strained, it must not break our bonds of affection." On Constitution Day, 2019, what must be renewed is not our faith in a system, but in each other. Lincoln failed to renew that faith, in his time. In our time, we must not fail, but succeed.

Title: Bends Toward Justice Podcast--Where You Can Hear It Now

Date: 2019-09-22T14:01:00.000-04:00

9/22/2019--here is the announcement made at Duquesne this week by Jennifer Rignani, our communications director. All, It is with great enthusiasm that I share with you the pilot podcast series "Bends Towards Justice", an original podcast created and hosted by Duquesne University School of Law Professor Bruce Ledewitz and executive produced by the school of law communications office. We'd told you all previously that this was in production and we just wrapped it! This thought-provoking show is produced in partnership with The August Wilson African American Cultural Center and funded by The Pittsburgh Foundation. The podcast asks a simple, but fundamental question—do we agree with Dr. King that arc of the moral universe bends toward justice? The guests in this series provide a variety of perspectives on that question. The goal of the podcast is for the listener to understand what is at stake in this question and to come to a decision. We are working on a rollout of the series on social media and encourage you to please share on your feeds and please provide Bruce and I feedback or thoughts on the show. Here it is: Soundcloud Thanks all! Warm regards, Jennifer Rignani
Communications Director Duquesne University School of Law 600 Forbes Avenue Pittsburgh, PA 15282 www.law.duq.edu O 412.396.2462 C 412.977.5795

Title: Nihilism in the Heartland

Date: 2019-09-22T16:45:00.000-04:00

9/22/2019--I don't think I have ever read a book review that depressed me so. This is what it looks like when the universe doesn't care about my purpose--nothing left but cut off individualism and conspiracy theories. This is why the Socialist Workers Party hates the identity politics of the progressive wing--it divides people. Rich Lord's review of *We Are Still Here in the PG*.

Jennifer M. Silva spent Nov. 8, 2016, in a coal town in Central Pennsylvania, and when she arrived for an interview wearing an "I voted" sticker, it didn't go over well.

"I wouldn't be proud of it, no offense," her interviewee told her. "Are you paying attention to what's going on around you?"

Yes, she was, and if you are too, you'll find many chilling moments in Ms. Silva's second book, *"We're Still Here: Pain and Politics in the Heart of America."* If you're familiar with post-industrial towns and neighborhoods, you'll recognize her interviewees, ache for them and likely quake for our future.

"WE'RE STILL HERE: PAIN AND POLITICS IN THE HEART OF AMERICA"

By Jennifer M. Silva

Oxford University Press (\$24.53).

Ms. Silva, an assistant professor at the Paul H. O'Neill School of Public and Environmental Affairs at Indiana University Bloomington, spent months in midstate coal towns, conducting more than 100 interviews with a diverse selection of natives and newcomers. Her goal was to explore the ways the lives of working-class Americans inform their politics. She ended up scraping for something — even something painful — on which to pin some hope.

"They have all become acutely distrustful of the institutions that could connect their individual problems up to collective action," she writes. Many of her interviewees were "struggling to convince themselves that 'America' stands for something larger than individual greed," and diving deep into cynicism and conspiracy theories that only render them less politically relevant.

Studies from decades back found that most working people had some sense of allegiance — to their union, church, profession, political party or country, Ms. Silva writes. In 2016, she found allegiance "virtually nonexistent," replaced by a fatalistic version of rugged individualism.

Ellen, for instance, "derives a sense of self-worth from rejecting dependence on others and sacrificing to make it on her own," while maintaining a cold distance from a heroin-using sister and frowning on the family members and public servants that preserve her.

Jacob, a welder, "projects fearlessness, emphasizing his willingness to take risks and live with the consequences" and scorns fast-food workers who aspire to earn more, noting that he has "more chances of dying at my job than they do at theirs."

The parade goes on, with interviewees reflecting that great American value of standing on your own two feet — and getting nowhere. Asked whether they'll vote, nearly two-thirds say no.

"Whoever they want to win is gonna win, and it's all a matter of who has more money," Danielle tells Ms. Silva.

"Big money runs this country," Austin adds, explaining his decision not to vote. "If you think they'll take less so you can have more, you're ignorant. They keep us bickering amongst ourselves while they live above the law."

The decision not to vote, of course, does nothing to shake the grip "they" have on our nation's resources. And yet, even those of Ms. Silva's interviewees who have coherent hopes for government don't vote on that basis.

Her subjects "express a great deal of support for policies that expand opportunity in terms of education, health care, fair pay and good jobs," she writes. But if they vote at all, they're likely to choose the candidate who is "in your face" and "don't give a crap" what anybody else thinks, as one interviewee puts it, "because we don't give a crap, and that's what this country needs."

One thread excited most younger interviewees: conspiracy theories. "Betrayed by institutions, detached from political or religious organizations, and distrustful of government," Ms. Silva writes, "young working-class adults briefly lit up, their faces flushed, words flowing quickly, when they proved to me that they could not be fooled by the illusion of democracy."

Ms. Silva notes that democracy historically serves working people only to the extent that they "form associations based on a larger sense of 'we.'"

What unites many of her characters? The presence of trauma, often due to sexual abuse, abandonment, economic dislocation, injury or addiction in their lives or their families. Ms. Silva wonders "whether affinities built around pain could serve as a bridge between individuals and the larger society, perhaps replacing or supplementing older kinds of identity politics, like class or race."

Certainly, the #MeToo movement has shown that alliances built on trauma can move the needle. It remains to be seen whether pain can be a long-term organizing principle and can overpower interviewee Daniela's chosen philosophy: That as long as "nobody's messing with us, and nobody comes to my door and nobody's threatening me, putting a gun to my face, I don't have to worry about nothing."

Title: What are the High Holy Days About?

Date: 2019-10-02T21:14:00.002-04:00

What are the High Holy Days About? 10/2/2019—I have been reading the essay, Language, in Heidegger's book, Poetry, Language, Thought. In this essay, Heidegger asks what language calls? Language calls what is far. It calls us to the absence of what is far. Language does not round up what it calls. The same is true of God. The High Holy Days are not about renewing a program of social justice. They are about the holy. They are about God and humans. One does not pray to bring oneself closer to God. Closeness to God is not a human achievement. Nor does one pray to bring closer. God is far away. Rather, one prays to bring the absence of God closer. That is the penitent posture. One prays into that absence for forgiveness. Out of that renewed spirit, it is possible to imagine a program of social justice. But it would only be one that arose out of human solidarity. So, the point of the High Holy Days is longing for God. Unlike other holidays that have other themes—law for Shavuot, freedom for Passover, nature for Sukkot—the only theme of the High Holy Days is God and my inability, through sin or simple distance, to be in God's presence. Shabbat also has this theme, which is why Psalm 27:4 is said: "One thing I ask from the LORD, this only do I seek: that I may dwell in the house of the LORD all the days of my life, to gaze on the beauty of the LORD and to seek him in his temple." But, it may be asked, what has all this to do with the atheist, who does not believe in God? Someone like me. But who longs for God more than the atheist, for whom the distance from God is truly infinite? The believer has God in his pocket. Not so the atheist. It is impossible to think of a character like Chris Hitchens as anything but a jilted lover. Hitchens had God and then he lost God. That would be true of most atheists of a certain age. Most of us grew up as believers and we know what we have lost. There is a different kind of atheism growing now—the young, who know nothing of the God experience. So I said to my teacher, I miss Kol Nidre. Then for a moment I felt close to the divine. No, he said to me. Now you have Kol Nidre. If you had continued going to that service, you would eventually have lost it through repetition. It remains for you now holy for all time.

Title: Yom Kippur and the Shootings

Date: 2019-10-09T06:11:00.001-04:00

10/9/2019—The Jewish community in Pittsburgh continues to struggle to come to terms with the shootings a little more than a year ago that killed 11 persons and wounded others at a synagogue building housing three congregations. Because of the timing, the shootings have been on the minds of many during this High Holy Day season.

Actually, all of Pittsburgh is reminded of these events. That is obviously true of me, but I retain many ties to Judaism, including an awareness of the liturgical calendar.

Commemorations climax today, on the holiest day of the year—Yom Kippur, the Day of Atonement.

On this day of fasting, Jews seek forgiveness of sins, both individually and collectively.

The Christian question after such a horrific act tends to be one of forgiveness of the perpetrator. This echoes Jesus's call from the cross—Father forgive them for they know not what they do.

This is a theme that Dan Leger, who was badly wounded in the shootings, referred to in a story in the Jewish Chronicle. Dan, whom I have known for years, and who is a spiritual source for many at Dor Hadash and in the community generally, said that when he awoke after the shooting, the first thing he said was the Shema, the second was "I love you" to his family. The third thing was, "God forgive him," very much like Jesus.

I am not aware that this fits exactly with the meaning of Yom Kippur, however. On the cross, Jesus is not concerned with his own sin and the point of Christian theology is that he was blameless—without sin.

Yom Kippur, on the other hand, is about one's own sin. Obviously, there is no direct relationship to a terrible Anti-Semitic act of violence, for which the victims bear no blame.

On the other hand, Rabbi Friedman, an Orthodox rabbi in the Chasidic tradition, tells a story from the Baal Shem Tov, the founder, who told of a man who kept two ledgers—one of his sins and the other of God's sins. He tossed both in the fire, saying, "if you forgive mine, I will forgive yours." We could think of the shooting as an offense by God.

Then there is the communal theme. On Yom Kippur in the Torah, the sins considered are more national than personal. The sins of the Jewish people. After the Holocaust, this led Jewish thinkers like Emil Fackenheim to radically rethink the relationship of the Jewish people to God.

Here is what Fackenheim said: "we are, first, commanded to survive as Jews, lest the Jewish people perish. We are commanded, secondly, to remember in our very guts and bones the martyrs of the Holocaust, lest their memory perish. We are forbidden, thirdly, to deny or despair of God, however much we may have to contend with him or with belief in him, lest Judaism perish. We are forbidden, finally, to despair of the world as the place which is to become the kingdom of God, lest we help make it a meaningless place in which God is dead or irrelevant

and everything is permitted. To abandon any of these imperatives, in response to Hitler's victory at Auschwitz, , would be to hand him yet other, posthumous victories.”

Fackenheim should be remembered today, but I actually cannot remember anyone talking about him. Of course, I have not been attending these remembrances, so maybe I just missed it. Fackenheim was not enough to keep me within Judaism. But I have been living with the world as a meaningless place, just as he feared.

Title: Why the Democrats Need to Tap the Brakes on Impeachment

Date: 2019-10-14T19:17:00.001-04:00

10/14/2019--I forgot last week to post a reference to my column on impeachment in the Pennsylvania Capital-Star. You can read it here.

Title: What is the Universe?

Date: 2019-10-22T04:44:00.002-04:00

10/22/2019—Bernard Lonergan asks, Is the universe on our side? It is a big question. But, before we can even begin to think about it, we have to ask, what is the universe? For most people, the universe is what we can know with the senses, however enhanced by the tools of science. In fact that is all there is. There are invisible forces and matter—gravity, dark energy, dark matter—but even these can be indirectly measured by their effects. This is materialism. And, as Alfred North Whitehead points out, it leaves out a lot of human experience. The self. Time. Causation. Therefore, this account of reality must be incomplete. There is another sense in which materialism is incomplete. There is a blueprint that underlies the sensible universe. All that we see participates in this blueprint. You could call this blueprint God, but it would not be a God who talks and wills like a person. This God would be less personal than that, although I suppose we humans would sometimes experience the blueprint in personal ways. Is referring to a blueprint a metaphor? Yes. But I believe it is a close one. How about, “it is as if there is a blueprint underlying everything?” Martin Heidegger in *Poetry, Language, Thought*, indicates the blueprint. Heidegger is meditating on language. The poem is spoken purely and can help us understand language. (come into the neighborhood of language). The poem Heidegger chooses is *A Winter’s Evening* by Georg Trakl. The speaking of the first two stanzas of the poem “speaks by bidding things to come to world, and world to things.” (202). And later, “The difference lets the thinging of the thing rest in the worlding of the world.” Heidegger stretches language here to show us a deep ordering of reality. This is appropriately how things are. How things are in relation to everything else. Humans have a lot of names for patterning like this. I guess Jung’s archetypes are another example. The point is that reality is not just one thing after another. It is not chaos. It is ordering all the way down. That is a good thing because that is the only kind of reality that humans could possibly inhabit. Materialists have a term for this human need—“false pattern recognition.” But at the level of metaphysics, they have no basis for supposing that these patterns are false. The claim that ordering is made up is a kind of faith. A faith in materialism. Not a persuasive faith. And one that is killing us.

Title: The Shooter and the Death Penalty

Date: 2019-10-27T16:00:00.000-04:00

10/27/2019—Today is the commemoration of the synagogue shootings in Pittsburgh last year. I have nothing to add to all the beautiful sentiments that have been offered. But it is hard for me to believe that the government fails to see how destructive it is to be asking for the death penalty in this case. The death penalty accomplishes nothing, but it is at least understandable when victim family members want it. Then, at least, the sentence provides closure for the victims. But, in this case, for lots of reasons, the community affected by the shootings have made it very clear that they do not want the death penalty—in fact, are opposed to the government seeking it. I am not suggesting that their view of the death penalty should control. But their recovery should control. Basically, the members of these congregations just want to move on from the shootings. If it were not for the death penalty, the shooter, whose name I will not use, would probably already have disappeared into the Pennsylvania life-without-parole system. The community would never have to hear about him again. But, because of the death penalty, everyone will have to not only relive the events, but hear how unfortunate the shooter was in life—or whatever bull the defense will dredge up in the sentencing hearing. This is destructive for survivors, unless they want it. You would think that the government would understand that and just let it go. It is not as if these white nationalist shooters are deterred by the death penalty. Whatever deterrent effect the death penalty might have in general, these people are attracted by the idea of death. They would more likely be deterred if nothing special happened to a shooter—there would be no glamour. This is the curse of politics. If only the government would reconsider.

Title: The Politics of Carl Schmidt versus the politics of Abraham Lincoln

Date: 2019-11-07T06:23:00.000-05:00

11/7/2019--I can now sum up in a nutshell what is wrong with American public life--though this is not the same as being able to do something about it. The Nazi jurisprudential thinker understood politics as realm of friend-enemy. This is precisely how we act today in our two "sides." And we mean it. For the right, the prospect of a Hillary Clinton Presidency made the 2016 election the Flight 93 Election--fight or you die. Hillary Clinton?? What was she supposed to do that would lead to that? Her Supreme Court would not grant religious exemptions to believers who wanted to discriminate against gay people? Even the loss of a tax exemption is not dying. And, anyway, courts only enforce laws that legislatures pass. For the Left, the prospect of a reelected Donald Trump is unfathomable. And he can only be reelected by a minority of the electorate. He could only be another Electoral College special. How long before the Left invites the army to take over. The temptation is always to a politics of friend/enemy. That is why Schmidt is so powerful a thinker. But the much greater politician was Abraham Lincoln, who said at his first inaugural, "We are not enemies, but friends. We must not be enemies." And elsewhere, "Do I not destroy my enemy when I make him my friend?" But, to look at things like Lincoln, you have to feel a common humanity with your political opponents. We do not feel that way today.

Title: What's Wrong With Impeachment

Date: 2019-11-14T04:03:00.002-05:00

11/14/2019—I could come up with a list. 1. Impeachment will not remove President Trump. Since I don't think he has done enough to warrant being removed, in terms of the matters being discussed, this is not a bad thing. But it means that impeachment is irrelevant to getting rid of President Trump. 2. Impeachment distracts from worse things that President Trump is doing. How does Ukraine stack up against trying to end DACA? That is a really terrible thing. 80% of Americans support DACA. Yet, although the Supreme Court heard oral argument on ending the program, no one is talking about it because of the impeachment hearings. Impeachment is a gift to President Trump. 3. This one thing—asking Ukraine to investigate Joe Biden—is corrupt. But, by itself, I doubt that it is sufficient to warrant removal from office. Which brings me to... 4. It must be obvious that the Democrats are just using Ukraine as a kind of symbol for “everything else” that actually does justify removing Trump from office—including that he was grossly unfit in the first place. But, this is the problem—he got elected anyway. Impeachment only makes sense over Ukraine if you agree anyway that Trump should be removed from office. 5. Impeachment should not be partisan. The supposed answer to this is that it is the Republicans who are making it partisan. But I am not sure this is so. If the evidence showed that Trump countenanced a burglary into the DNC and then covered it up, I think a few Republicans would support impeachment and probably removal. 6. Hunter Biden really is corrupt and Joe Biden really did have a conflict of interest over Ukraine corruption, therefore, that should have kept him a million miles away. I agree that Trump still should not have been using military aid to force a foreign government to investigate the matter, but there really was something to investigate. 7. Since the President does actually believe that Ukraine, and not Russia, interfered with the 2016 election, efforts to get Ukraine to investigate that are not per se impeachable. 8. Holding up military aid is not an impeachable offense by itself. It's laughable to hear Democrats and media voices complaining about that—like that is not a common practice. You shouldn't do it for a corrupt motive, but if President Trump had been using the aid to obtain the release of an innocent American from a Ukraine prison, you think that would be impeachable? 9. Finally, for now, impeachment isn't helping beat Trump in 2020—and won't. 10. Already came up with one more--President Trump's view that Crimea should go to Russia, which a witness called inflammatory, is not only not impeachable, it is nobody's business in the State Department to denounce. They might try to counsel Trump on its wrongheadedness, but it is his call--like running guns to Britain in 1940 despite American neutrality.

Title: Court-Packing

Date: 2019-11-19T04:28:00.000-05:00

11/19/2019--Yesterday, the Online Pepperdine Law Review published a debate on Court-packing between San Francisco Sociology Professor, and founder of Pack the Courts, Aaron Belkin, and me. My contribution is entitled, A Call to America's Law Professors to Oppose Court-Packing. Professor Belkin responds. The exchange can be found [here](#) and [here](#).

Title: What is the Point of this Column?

Date: 2019-11-22T18:44:00.002-05:00

11/22/2019—Blanch Vivion Brooks wrote a column today in the NY Times, entitled We Need a Religious Left. Sure we do, for the reasons she writes and for many more besides. But, what is the point of saying so if we don't have one? People do not leave religion—or even just have no contact with it—out of choice. It happens organically. Many members of this generation just don't believe in God. You can point out that this has bad effects as much as you like. You can't manufacture belief. I left Judaism because I no longer believed in God and because I was becoming more and more irritated at the manifestations of belief I encountered in synagogue. That is not a criticism of believers. But what is beautiful to them is just infuriating if you don't believe. Anyway, I was told that my seething anger was the least religious comportment imaginable. It was time to go. And if you tell me that actions like mine undermine social life, just what am I supposed to do about it? I already know that this is the case. Maybe a column like this can help convince secularists that religion is a good thing very often. That would be helpful. But it can't bring back religion. Faith does not work that way.

Title: Happy Thanksgiving

Date: 2019-11-28T06:39:00.001-05:00

11/28/2019--Happy Thanksgiving. This is the holiday that has successfully made the transition to secular expression. And, unlike Christmas, it has done so with its soul mostly intact. It is a holiday of giving thanks and of being thankful. No wonder modern capitalism has no interest in it and just wants to get on with shopping. But the holiday is also acceptable to secularism because it makes no demand on us to change. If anything, it is a celebration of what we are today. Gratitude is undoubtedly a religious expression, but it pales before Teshuvah--repentance. The high holy days, or lent, of any of the periods of self-reflection and prayer have not made the leap to secular cultural expression. They are what we most need today. So, Thanksgiving is religious enough to challenge us only a little--too much for capitalism's taste--but not enough to really help us. Enjoy your turkey.

Title: A Good Day for the Rule of Law

Date: 2019-12-04T07:35:00.001-05:00

12/4/2019--They say that you can only celebrate a judicial decision as a vindication of the rule of law if you really dislike the outcome. Based on that standard, I can honestly celebrate Nov. 21, when the California Supreme Court decided a case known as *Patterson v Padilla* as a good day for the rule of law. *Patterson* was the case in which the California court unanimously struck down the state statute that would have required President Donald Trump to release five years of his tax returns before he could qualify for the California primary ballot. The court held that the law violated California's state Constitution, which guarantees recognized national candidates for president open access to the State primary. The outcome is not what I would have liked. Like most Democrats — and like most Americans — I believe that Trump should release his tax returns and I am mystified that he has gotten away with not doing so. The California statute had been passed on a party-line vote and was a very popular partisan challenge to Trump. The impact of the decision was also not its most important aspect. Trump said he would pass up the California primary rather than comply with it and the law had already been enjoined by a federal court. What was great about the decision was that, despite our highly partisan environment, it was rendered by a court on which a majority of the justices had been appointed by Democratic governors. This Democratic dominated court still rendered a unanimous decision against the law. Here we have an example of judges vindicating the requirements of the law despite what must have been their personal preferences. The real winner in the case was the rule of law itself.

***** The above is the opening of my column celebrating *Patterson v. Padilla*. Read the rest here.

12/7/2019--In 1903, Winston Churchill delivered a speech rebuking the policy of his own Party, the Conservative Party, favoring tariffs. He argued that protectionism, "means a change, not only in the historic English Parties, but in the conditions of our public life. The old Conservative Party, with its religious convictions and constitutional principles will disappear and a new party will rise...perhaps like the Republican Party in the United States of America...rigid, materialist and secular, whose opinions will turn on tariffs and who will cause the lobbies to be crowded with the touts of protected industries." [William Manchester, *The Last Lion*, 353 (1983)] Churchill saw that free trade is not just an economic policy. It is a faith in the solidarity of humankind. It is peace. It is a generous spirit that we are all one. This is surprising, since Churchill was an imperialist. But he had a sufficiently great spirit that he could identify with all. He never would have proclaimed England First. He championed a prosperity for everyone. And he believed that free trade would get us there more reliably than any other policy. Furthermore, he believed that the grasping for national advantage must inevitably lead to war. Again, surprisingly to us, he saw capitalism as inherently moral and religious. We think it is not, because we don't have real capitalism. We have indeed special interests seeking narrow advantage, masquerading as capitalists. Adam Smith, after all, was a supremely religious man.

Title: Today's column on hate speech in the Pennsylvania Capital-Star

Date: 2019-12-17T06:29:00.002-05:00

12/17/2019--My column ran today in the Pennsylvania Capital-Star addressing hate speech.

Title: Light in this Dark Season

Date: 2019-12-22T08:08:00.001-05:00

12/22/2019—Timothy Egan wrote a column for yesterday's New York Times entitled, There is Light in this Dark Season. I thought the column was about Advent. It wasn't. It was about secular acts, including politics. They were things that did not speak light to me. It is always dark at this season. Dark for the short days—in the Northern Hemisphere—and dark because we live in a fallen world of violence and lies. Always. That is the beauty, grace and hope of the Christian story. That is the light in this dark season. Jesus is always being born. A savior. But, you may say, I don't believe in Christ. I like the teachings of Jesus, but that's all. Today, Nicholas Kristof answers, it doesn't matter if you are a Christian. It matters if you are a follower of Jesus. This is not a dumbed down message for a secular age. It was more or less the same message Karl Barth gave in 1911 to a labor union: "If you understand the connection between the person of Jesus and your socialist convictions, and if you want to arrange your life so that it corresponds to this connection, then that does not at all mean you have to 'believe' or accept this, that, or the other thing. What Jesus has to bring to us are not ideas, but a way of life. ...And as an atheist, a materialist, and a Darwinist, one can be a genuine follower and disciple of Jesus."

Title: Christmas 2019

Date: 2019-12-25T05:10:00.000-05:00

12/25/2019--Well, it's not 1862. Or 1941. Our country is more or less at peace--though the endless war keeps costing American lives. Our country is prosperous--though its economy is dependent on red ink and oil, neither of which can last. But Americans are divided, as we have not been, perhaps, since the Civil War. And we face a peril that threatens all of humanity in climate change that has proved very difficult to deal with. We are short on hope. Secular society needs to hear the message of Christmas. The universe is on our side--on the side of life and goodness and truth. The universe intervenes in what science calls emergent phenomena, which miraculously bring forth new possibilities that are greater than the sum of what was present before. Hope is anti-entropic. So, although many of us are not Christians--we may follow other traditions or none at all--let us all celebrate the birth of a child who will be a savior. Out of unimaginable weakness, unsurpassed strength. Merry Christmas.

12/29/2019—This is not a blog entry about gun control. Of course it is morally permissible to kill someone who enters your home with a machete. And, since we live in a world where people enter your home with a machete, some people will want to have a gun for self-defense. That said, it is jarring to read the response of Randy Barnett, the great conservative jurisprudential thinker, to the attack on a Jewish Hanukkah celebration in Monsey, New York. New York needs to join the 40 CCW states and pass “shall issue” concealed carry laws and Jews need to arm up & train. It’s not going to be a perfect solution, but nothing is perfect. As a Jew, this is one reason I both own and have my CCW permit, though I don’t *need* it—yet. Randy thinks of himself as shooting someone who is threatening him or someone else. I doubt he thinks that doing so would traumatize him for life—or, he might say, it would still be better than being dead. I feel the same way. As I wrote above, this is not an entry about gun control. But, now I think about the Hasidic Rabbi—Chaim L. Rottenberg—in whose home the attack took place. Is it so clear that he would want to shoot the man who entered his home with murderous intent? For a secularist like me, death is the end. So, it is senseless to worry about tainting your soul with a violent but morally justified act to prevent being killed. But, if I thought I would stand before God to account for all the actions of my life, then it would not be so clear. To kill to prevent others from being killed? Yes. To prevent my own death? Maybe not. It is worth mentioning that this is exactly the kind of thinking that drove Zionists crazy during WWII and its aftermath. They were looking to create a society of Jews who would be able to act to defend themselves. And the policies of the current State of Israel are evidence that they succeeded. Israel is certainly a normal State in terms of self-defense. The world cannot understand religious belief. This was shown in the general amazement at the reaction of the Amish to the murder of five children in Lancaster County in 2006. Well, I can’t either. Not really. Let’s just say that the world will not be redeemed by more concealed carry gun permits. But the world might be redeemed by something very different.



POSTS:
2020

Title: David, It Was Already Done--It's Called Hallowed Secularism

Date: 2020-01-04T05:07:00.001-05:00

1/4/2020--Now if could only get David Brooks to read Hallowed Secularism. A friend just sent me a column by David Brooks from February 2015, calling for an "enchanted secularism." Anyone out there know Brooks well enough to tell me how to alert him to the book, Hallowed Secularism?

Title: Tamsin Shaw and “the need for us to converge on some shared values to have a functioning form of government.”

Date: 2020-01-18T09:11:00.004-05:00

1/18/2020—I received this in an email from the NYR Daily, which is a really interesting effort by the New York Review to bridge the gap between the day to day and the magazine itself, which comes out twenty times a year. Shaw wrote an essay on William Barr and Carl Schmidt, which I understand because of the friend/enemy distinction that Barr is prone to, but which is also really overblown given that Barr is a practicing democrat. Shaw’s first book was about Nietzsche’s political ideas—Nietzsche’s Political Skepticism (2007). This is from the Princeton Press description: "Shaw argues that the modern political predicament, for Nietzsche, is shaped by two important historical phenomena. The first is secularization, or the erosion of religious belief, and the fragmentation of moral life that it entails. The second is the unparalleled ideological power of the modern state. The promotion of Nietzsche’s own values, Shaw insists, requires resistance to state ideology. But Nietzsche cannot envisage how these values might themselves provide a stable basis for political authority; this is because secular societies, lacking recognized normative expertise, also lack a reliable mechanism for making moral insight politically effective." The quote in the title of this entry is actually quite despairing given Shaw’s view. She clearly believes that Nietzsche is on to something. But the problem is the lack of “recognized moral expertise.” Well, how could there be expertise about the will to power? Why should the will to power “converge on some shared values?” There is a pretty obvious answer to this problem, but Shaw would say that it just isn’t true—moral realism of some form. If values are real—leaving aside what real would mean—then such a thing as “recognized moral expertise” would be possible. The problem would be to convince a culture that one moral answer is better than another—closer, at least, to true. This would be difficult but not insurmountable. It would be a task that one might attempt. As things stand, Shaw must remain essentially hopeless—as was Nietzsche. So, why should she even hold out the possibility of achieving political legitimacy? Should she not admit that this is now impossible and we are doomed? Why does she lack the fortitude to face the facts? I suggest that her inability to do this stems from Shaw’s unwillingness to give up. Good for her. I suggest, however, that she then get to work and stop lamenting. Are there real values or not?

Title: David Brooks and the 4 Narratives

Date: 2020-02-01T09:59:00.001-05:00

2/1/2020--David Brooks writes in a tweet: "There are 4 narratives in American Life. Individualistic competition (current meritocracy), cultural warfare (Trump), class warfare (Sanders), collaborative pluralism (Weavers). Pick one." The reference is to his column on January 30 about the future of American politics.

Title: David Brooks and the 4 Narratives

Date: 2020-02-01T10:07:00.003-05:00

2/1/2020--David Brooks writes in a tweet: "There are 4 narratives in American Life. Individualistic competition (current meritocracy), cultural warfare (Trump), class warfare (Sanders), collaborative pluralism (Weavers). Pick one." This refers to his January 30 column about the future of American politics. The problem is that it is such blather. Four? Why not more? Why not less? Trump and Sanders could easily be warfare. Why is individualism its own category? Shouldn't it then be individual/social? Of course Brooks is a columnist, not a philosopher. So, clarity is not the issue. Nor logic. But, what is pluralism? And where is communitarianism--the idea that we are all this together serving a common good? Yes, people are different and groups are different. So? Was Dr. King practicing collaborative pluralism? Is economic justice pluralistic or universal? How about solidarity as a category? Or Truth? Back to the drawing board, David.

Title: The Sprit of the Age

Date: 2020-02-09T06:34:00.000-05:00

2/9/2020—Humanism and materialism are not sustainable. Neither is solipsism. Nor, for that matter, is skepticism. So, today, I can read in the New York Times on both the Right and Left, Ross Douthat and Jamelle Bouie, repetitive theories of history. (Right now we're down). I also have on my desk the a January 19, 2019 review of books on liberalism and democracy by David Bell, " Each of the three books under review makes a renewed case for elements of the liberal ideal, but with a powerfully heightened sense of its fragility and of the contingent factors behind its historical development." And also on my desk a letter to the editor about a review by Elain Blair, which will not get published. Here is what I wrote. To the Editor: Elaine Balir writes, concerning a moment in Ben Lerner's novel, 10:04, "Lerner...is writing in a time of doubt about the realist writer's authority to take us very far beyond the bounds of his own experience." ["Learning to Fight," NYR, February 13, 2020] Undoubtedly, Blair does speak for the cultural moment. But this unthinking solipsism must be confronted in order to defeat it. Think of the implications of Blair's understanding. The rich author cannot write about a poor person. Not really. Because he cannot know what it is like to be poor. Similarly, a man cannot write about a woman. A white author cannot write about a person of color. But why stop there? The soloistic student famously said to the philosopher Ludwig Wittgenstein, "No one can know my pain." How could an author have "authority" to write about anyone else? He cannot know another. Furthermore, Wittgenstein retorted, "Are you sure you know?" How can Blair grant the author authority to write about "his own experience," as if that fraught category were self-evident? We don't know ourselves. The only authority is truth. Ben Lerner can write a social novel to the extent he is true to its characters and situations. That is our only authority and it is an exacting one. There is no escaping judgment. Vapid nihilism leads only to the abyss. An abyss all too obvious in our current political life.
***** The problem with all of this is that we take these views as obvious and self-evident. Or as beyond investigation. In other words, there is no actual truth we might learn. This is really the age of evasion about learning anything.

Title: The Age of the Decadent Thinker

Date: 2020-02-15T08:11:00.000-05:00

2/15/2020—Here is the letter to the editor that I wrote addressing Ross Douthat's several page essay in the New York Times last Sunday—The Age of Decadence. To the Editor: Ross Douthat's essay, The Age of Decadence (2/9/2020) was disappointing. Not because he was wrong—since the piece was basically Douthat's view of things, he could hardly be called wrong—but because it was so pointless. Douthat's view of history is that of ebb and flow. We happen to be in an age of decadence now. A renaissance will come, but all we can do, he writes, is “look and hope” for it. Conveniently, this lets Douthat completely off the hook. Douthat's view is especially odd because one of his prime examples of previous ages of decadence, the decline of the Roman Empire, was occurring at the same time that the Patristic Era was unfolding—one of the most creative periods in the history of the Church. Those Christian leaders presumably did not feel decadent. If Douthat is too worn out and fatalistic to find the creativity occurring right now, let him turn his column over to someone who is not so jaded. The decadence here is that of Douthat, not of society. ***** The passivity of Douthat's thinking is striking. Here we are and there is nothing to do about it. I suppose there is such a thing as decline. The US certainly seems to be in decline right now. Britain was in decline after WWII. China has been on the rise. Etc. And surely there are forces involved that no one can immediately alter. But is any of this relevant to how we should live? What we should do? It is certainly not an excuse for doing and thinking nothing. Offering no help at all. Can't one look into the sources of this supposed decadence? Are they material? Cognitive? Spiritual? And why didn't the editors at the New York Times ask Douthat about any of this?

Title: David Brooks Channels Ishmael

Date: 2020-02-22T09:15:00.000-05:00

2/22/2020--David Brooks writes that Bernie Sanders will probably win the Democratic nomination because he is a mythmaker and the other Democrats are not. This sounds like Daniel Quinn's book *Ishmael*, in which the gorilla teacher, Ishmael, explains that Hitler dominated German life because he offered a "story." (I don't mean that Bernie is like Hitler). American life right now is notable because of the absence of any story about human existence. The religious stories largely fail to resonate. The secular stories of progress also fail. Materialism is not a source of any understandable story. Under materialism, human life is a unreasoned accident. So, we simply need a new story.

Title: The Crisis Over Recusal

Date: 2020-02-26T05:33:00.003-05:00

2/26/2020—This topic requires more room than I can give it right now. President Trump is calling on Justices Ginsburg and Sotomayor to recuse in cases involving him. The real issue is judicial independence and the rule of law. If you believe that all law is now politics, not in the policy sense but in the partisan sense, then the idea of a rule of law is impossible. As one commentator wrote, *Bush v. Gore* was the first case in which people really thought the outcome turned on Party affiliation. That was a real low for the Court. It is no surprise that the Justices have ideological positions. But now, in our highly polarized setting, Party affiliation seems to be on display. Or, we think it is. Ginsburg had no business calling candidate Trump a “faker” when he was the likely Republican nominee in 2016. Roberts said we don’t have Obama judges and Trump judges, but, as I have written previously, no one agreed with him.

Title: A few thoughts on Ezra Klein's new book. This is the real reason we're polarized

Date: 2020-02-27T13:40:00.002-05:00

2/27/2020--Yesterday's column in the Pennsylvania
Capital-Star.

Title: Proud to be a Democrat

Date: 2020-03-04T07:21:00.002-05:00

3/4/2020—Forget Bernie's qualities for a minute. I don't have a big problem with Bernie except that I don't think he will win. But forget that—he might have a better chance against Trump than does Biden. I want to focus on the fact that Amy and Pete did the honorable thing—the thing that Marco Rubio and Ted Cruz could not bring themselves to do in 2016. They acted. They sacrificed their own campaigns to do what they think is the best way to stop Trump. That is an honorable act, even if they are wrong about Bernie as a candidate. You might say that they sacrificed nothing. They were not going to be the nominee anyway. But neither was Rubio. And he refused to get out. It's hard to face reality and admit defeat. Just ask Warren. So, just for a moment, forget whether Biden can win. Just think about the fact that in 2020, two politicians in America acted dramatically to further the public good. It was just the kind of thing that Americans used to do. I didn't think we did things like that anymore. Take that, Mr. Ross, decadence, Douthat.

Title: Krugman's One-Sided Book: Arguing With Zombies.

Date: 2020-03-11T18:56:00.000-04:00

3/11/2020--The Pennsylvania Capital-Star today published my column criticizing Democrats and liberals for their fixation on overturning the Citizens United case in particular and the power of big money to control politics in general. But another theme of the column is that New York Times columnist Paul Krugman, in criticizing so-called zombie ideas--ideas that are discredited by evidence but never go away--is partisan. The Right has a number of these bad ideas, such as that tax cuts pay for themselves, but liberals have them too. Krugman ignores that.

Title: Still No Community Transmission

Date: 2020-03-17T04:21:00.000-04:00

3/17/2020--Happy St. Patrick's Day. But of course it is not happy. Governor Wolf ordered a statewide shutdown of non-essential businesses yesterday. But, actually, it will not be enforced. So, it amounts to a suggestion. The reason for this may be that, while there are now six confirmed cases of COVID-19 in Allegheny County, for example, there is still not one confirmed case of community transmission. (Story [here](#)). That would mean that County government would lack authority to order these closures and might mean the Governor lacks authority as well. But more than a lack of legal authority, it probably means that this measure is a mistake. Government officials and health officials also have been acting as if these closures have no costs of their own--as if it is better to be safe than sorry. I wish instead they had translated the loss of income that they are causing into future deaths of despair. For that is going to happen to some people who will go bankrupt or simply lose all their savings or will live in destitution. Less stringent orders--reducing restaurant capacity, ordering business to serve fewer people at a time, etc.--would not have been as effective, but they might have been sufficiently effective to retard and spread out community transmission. After all, it is not as if these measures either are going to prevent community transmission. And less stringent measures would be far less costly to people. Some income is better than none.

Title: The Age of Evasion

Date: 2020-03-21T15:50:00.001-04:00

3/21/2020--In the book I am working on, I am planning on a chapter entitled The Age of Evasion. The idea is that after the Death of God and the collapse of values, people don't necessarily embrace materialism. We may, instead, embrace deadlock. That is, faced with an unacceptable view of reality--that it is composed of indifferent forces and matter--humans may just stop inquiring and deciding about important matters. I am reminded of this because of the curious irresponsibility being shown by political leaders during the current virus crisis. It is a form of irresponsibility not to make the tough decisions. Closing everything down for an uncertain period of time, without any assurance that it will work any better than something more limited, is irresponsible. It will bankrupt and impoverish many people. How many? It depends on how long it goes on. It would take a gutsy person to say out loud that a couple of thousand deaths of mostly already sick people is not worth causing that amount of suffering. How many people will die within the next two years because of decisions that are being taken now? Then, having decided that it is worth it to impoverish people, it is proposed to add trillions to the already swollen debt by sending \$1200 checks out that don't change the fundamental situation anyway. Better to allow some level of business activity that would put a lot more than \$1200 in people's pockets. Brett Stephens has it right today in the New York Times.

Title: Foreboding About the Stimulus Bill

Date: 2020-03-28T06:01:00.001-04:00

3/28/2020—Look, even I tweeted that the unanimous passage of the stimulus bill in the Senate was good news. I wrote in my column that the response to the virus shows that we can still work together in an emergency. But I am still troubled. First, so much red ink. Of course you do that in an emergency. But we passed a \$2.2 trillion stimulus bill, when we run a \$1 trillion dollar deficit every year. Worse, no one even said anything about it. The American people are being led by irresponsible people. We could at least have pledged to cut the yearly deficit when we have recovered from virus. We could at least have mentioned that this situation is why you don't cut taxes during a boom—you will need the money later when there is an emergency. National governments are not just like households, but they are not totally different either. If they were, we wouldn't have taxes at all. So, the unseriousness of the culture is allowed to grow. The second part is the partisanship. How much of the unanimity comes because there is a Republican in the White House? Would Mitch McConnell have done this if Hillary Clinton had won in 2016? You'd like to think so. But, deep down, I don't believe it. And that means, ironically, that it is a good thing Trump won. Democrats would do this for the good of the country, while the Republican leaders would have put Party first. After all, McConnell said you don't allow a sitting President to put a Supreme Court Justice on the Court in his last year before an election, but recently said if there were a vacancy right now, he would fill it. He is just a disreputable and dishonest person. I hope I am wrong about this.

Title: Thinking of the Virus and the Earth in a Different Way

Date: 2020-03-29T07:14:00.003-04:00

3/29/2020—Brian Swimme tells a very strange and mysterious, indeed impossible, story in the documentary, *Journey of the Universe*. During the past 4 billion years, the heat radiation coming from the sun increased by 25%, because of changes in nuclear fusion in the sun. This should have caused problems for life on Earth, because life only exists in a narrow band of temperature. It turns out that the temperature did not increase by 25%, because at the same time, the concentration of carbon in the atmosphere dropped, allowing the Earth to cool. But why should this have happened? Swimme says that you could think of the Earth not as dead or mechanical, but as a kind of living system designed for the flourishing of life. One way that happens is if carbon becomes the shells of animals and sinks to the bottom of the ocean. But if we think in terms like those, why should not the virus be another natural response to increasing temperature? We know that greenhouse gas emissions will now actually fall because of the catastrophic effect of the virus on all economic and social life. I am not claiming this is the case. I don't understand how such things could happen without the kind of intervention that Christians used to call God's judgment. But that just raises the question of the virus in a different way. Five hundred years ago, Christians would have called the virus a purposive act of God and would have looked for the cause of such an action—like the sailors inquiring of Jonah what he had done to cause a storm at sea. Where are the Christians calling the virus God's judgment for the abuse of the natural world that is leading to climate change? The Bible says that if God's will is not obeyed, the rain will not fall. Well? In many places, the rains are already beginning to fail. The absence of a robust theological response to the virus is the clearest indication that God is Dead.

Title: The National Day of Prayer for the Coronavirus

Date: 2020-04-05T06:31:00.000-04:00

5/5/2020—Three weeks ago, there was a national day of prayer for victims of the virus. The Proclamation was issued on Saturday, March 14, right after President Trump's issuance of an national emergency declaration. You could say that it was at that moment that the President finally realized how serious the virus was. Was there ever a proclamation taken less seriously? It was a busy time. Friday was the last time I would meet my classes in person. That Monday I began to teach to an empty classroom with my stuffed animals. The world has changed quite a lot for everyone in these past three weeks. As of this morning, there have been over 300,000 cases and over 8000 deaths attributed to COVID-19. So, maybe I overlooked the national day of prayer because I was so distracted. But, until yesterday, I did not know such a thing had happened. I only found out because of a snarky tweet by Richard Dawkins, pointing out that deaths only began to climb right after the Day of Prayer. Here we have the real proof that God is Dead. This invocation was a perfect example of what is called in law, ceremonial deism. This is a reference to God that no one takes seriously as a theological expression. No one expected anything from God. No one thought God had anything to do with the virus. My column this week is about the virus's meaning. And I suggest three possibilities. One is materialism—the virus doesn't mean anything because there is no such thing as ultimately meaning anything. The universe is random forces and matter. The second is a new view of nature as alive. The virus is part of nature's story. Maybe the virus is a natural feedback loop preventing temperature rises. The third is the traditional monotheistic view. But what would that be? Something this stupendous would have to be the work of God. Jonathan Rosenblum points out that this viruses that jump from animals to humans could be a divine "hint" that we are losing our humanity. That kind of thinking is a still-functioning monotheism. But, mostly, we invoke God just to say we will be OK. This is not nothing, but it is close.

Title: What is the Meaning of the Virus

Date: 2020-04-08T12:50:00.001-04:00

4/8/2020--Check out my column today on the meaning of the virus in the Capital-Star.

Title: On Watching Ben-Hur

Date: 2020-04-12T07:24:00.001-04:00

4/12/2020—I used to watch the 1959 version of Ben-Hur with my children every year to celebrate Passover/Holy Week. But I haven't seen it in years. Then I watched it last night.

It is a very good film still, with a great plot, marvelous acting, a love story and a happy ending. Oh, and very good action, even for today. The chariot race still holds up. (the perched camera never gets old, but the naval battle doesn't get work and never did). And one of the greatest musical scores of all time, not just because the music is moving, but because it so aids in telling the story.

But what is astonishing is the sophisticated theological issues addressed. And the restraint with which they are presented.

I have never read the novel by Lew Wallace, but it is aptly subtitled "A Tale of the Christ." Jesus appears infrequently and we never see his face. That plus the haunting musical line associated with him in the movie creates an air of mysticism and reverence. (This effect is lessened at the end of the movie, when characters try to describe him during his passion. The failure of that dialogue emphasizes the power of the earlier, understated treatment.)

Basically, the story of the Christ is told by the effect he has on the characters. From the first scene at the manger with the three wise men, to his interactions with his father, Joseph ("He's working," Joseph replies to a critical friend when the young Jesus neglects his carpentry and walks alone in the hills—a quick case study in how to be a father.) to the moment that Jesus changes Judah ben Hur's life by intervening with water in defiance of the Roman soldiers, the power and goodness of Jesus's presence are shown.

The movie elicits piety without being preachy.

The movie also still speaks to a materialistic age. The early miracles are called "magic tricks" by a Roman official. But the teaching that God is in every man affects the official. The movie stops short of the resurrection, emphasizing the power of Jesus's sacrifice to heal the world by ending on Good Friday.

But the greatest aspect of the movie is its serious treatment of the different way of life Jesus is presenting and practicing. Judah's desire for revenge, which ultimately dominates every aspect of his life and closes him off to love, is entirely justified. But, on the other hand, the Roman government he hates is not presented as simple tyranny that must be resisted no matter what.

In other words, the world of the movie is the real world.

Into this world Jesus says forgive your enemies. Only his life and example make this simple admonition credible. Jesus changes the world right before our eyes.

A character says that Jesus took upon himself the sins of the world, but that is not what we see. What we see is overwhelming compassion and love that brings forth love and compassion in

everyone it touches.

That love and compassion is real power. The movie does not argue that Rome is not real power, despite Messala's claim that it is. It simply juxtaposes the two ways.

The movie does not argue that the normal way of the world is death. It shows us Judah becoming Messala by practicing the normal way of the world.

Who would not want to be a follower of Jesus after watching this movie?

Who would not wonder why Jesus has so few followers?

Title: Our Hyper Partisanship is Showing

Date: 2020-04-19T06:47:00.003-04:00

4/19/2020—There was a moment, symbolized by President Trump's statement that we were in for a hell of a bad couple of weeks on Tuesday, 3/31. At that point, everybody was pulling in the same direction. Actually he said, maybe three weeks. We made it two weeks. The demonstrations to reopen started right after that. It's not as if the statement of hell turned out to be an exaggeration, or at least not much. During this period we averaged over 27,000 new cases a day and we went from 1000 deaths a day to around 2000 deaths a day. But as Ross Douthat predicted in a column some time ago, weariness with the restrictions sets in. The economic pain becomes much worse, becomes a catastrophe in fact, and people want it to end. I know more people who have been harmed by the shutdown than people who contracted the virus. Couple that weariness with the Tea Party sensibility that anything Democrats, and some Republicans do, is bad and you get these demonstrations. Then the President encourages them. He tweets, liberate Michigan, Minnesota and Virginia. They have strict regimes all right, but not the strictest. And lots of Republican Governors have issued stay at home orders and closed essential businesses. I read at one point that 90% of Americans were under such orders. So why blame these Democratic Governors? (The movement plans demonstrations across the country, so maybe it will become less strictly partisan.) For that matter, why not blame the President? The guidelines his Administration released outlined metrics for relaxing the restrictions that the three States he listed don't meet. But why expect consistency or logic from President Trump? Or his supporters? Will all this help Trump's reelection? I don't know. His idea is to say, vote for me if you felt the restrictions were too much, without taking any responsibility for deaths that result from relaxation because that decision was left to Governors. In other words, it's like he was not President. It might not work. The American people might ask why the US had by far more cases than any other country? Why so many more deaths? They might ask why the President played down the threat rather than try to meet it. But it was crazy to elect him before. We might do so again. The real problem is that these demonstrations show that many Americans are still living in an ideological dream world. I thought wrongly that the virus would cause us to get real.

Title: My take on government abuse during the pandemic

Date: 2020-04-23T09:44:00.000-04:00

4/23/2020--My column this week considers whether government has abused its powers during the pandemic.

Title: The Disenchantment of the Virus

Date: 2020-04-25T05:14:00.005-04:00

4/25/2020—I wrote a column about this—see below, but it is worth remembering what we are not seeing in this time of shutdown. There never was a national effort, or even much effort in houses of worship that I know about, to ask God to spare us or humanity from the natural calamity of the virus. People used to ask God to end droughts all the time. Why don't we do that? In one sense, this is sophisticated theology. God has his own plans. If God sent the virus, why ask him to rescind it? But, really, isn't this an indication that God, even if people say they believe in Him, has no impact in the world? People know that God cannot intervene in the natural affairs of the world. How many steps then to saying God is irrelevant? You never have to become an atheist. But you are certainly not a traditional believer in any monotheist tradition—as C.S. Lewis said, Christianity is one big miracle. There is another indication of the death of God—there never was a national day of fasting and introspection and repentance for the sin that brought on this terrible calamity. That failure has an environmental side—maybe humans really did bring on this virus in some sense. Maybe the Earth is responding to global warming. But the plagues of Egypt were brought on disobedience to God. That is something a traditional believer would have at least considered. Max Weber was right. We live in a disenchanted world. God is Dead.

Title: What Does Over-Caution Signify?

Date: 2020-05-02T11:16:00.002-04:00

5/2/2020—Gov. Wolf announced a totally inadequate partial reopening yesterday. I was so angry about it that I begged off an interview for fear of what I might say. Here's the story. Southwestern Pennsylvania should have begun reopening by the metrics announced. Yet we were not included. It's the attitude that bothers me most. State Health Secretary Dr. Rachel Levine several times cited Pittsburgh and Allegheny County's "density" as the reason for not including us. Here is that part of the announcement, from state Health Secretary Dr. Rachel Levine: "And so we felt it prudent that looking at all the different data and looking at all the metrics, but taking consideration in our ability to work with counties in terms of contact tracing and testing, and the population density of Allegheny County and Pittsburgh, that it was it was not prudent to go from red to yellow at this time. But we are hoping to do that in the future." We are hoping??? What does that mean? This is not some permanent state of affairs where we have to ask the government to go back to work. The purpose of the shutdown was to prevent overwhelming the health care system. That is accomplished and nowhere in the country is that threat threatening to return. Everyone criticized Georgia, but there may be no increase in cases there. After all, there have not been many reported infections from the demonstrators. And they were on top of each other. It was never the point of the shutdown to keep people from getting sick and dying. Even after the orders are lifted, no one has to go out. Anyone who wishes can stay home. Gov. Wolf is not being reasonable. He is allowing an unrealistic public health model to bankrupt the state and individuals, as if someone going broke is not a tragedy. All this nonsense about checks, as if we could replace the economy by printing money. This is a perfect example of the age of evasion. Tough decisions cannot be made. It's enough to make you wish Republicans were in charge.

Title: Preparing the Ground to Overrule Roe?

Date: 2020-05-05T07:09:00.001-04:00

5/5/2020--my column today in the Capital-Star, here.

Title: Panic About the Future

Date: 2020-05-10T05:52:00.000-04:00

5/10/2020--Our current mood is captured by Giles Harvey in a book review of *Weather*, by Jenny Offill. Harvey referred to the mood of the novel as "the preemptive nostalgia for the present, the exhausting fear of the world to come." I am amazed at the fear and panic I hear about the virus and the future. America can certainly sustain the current level of virus cases and deaths until immunity and vaccine end the threat. I am told that on average 8000 American die every day. Yesterday a little more than 1400 died from the virus. That is a terrible thing, but why is it something to panic over? And, in Pennsylvania anyway, over 3/4 of the deaths have occurred in nursing homes and other facilities serving the old. I don't mean that these deaths are acceptable because people are old, but that it is obvious how to prevent a lot of the deaths we are seeing. We really have done a terrible job. This panic is strangely maldistributed. People my age should be more worried and as far as I can see are not. People in their 30's and 40's are the ones I see panicking. It may be that I am surrounded by academics. We as a group are not robust and fearless. Plus we have paychecks. For now. We can work remotely. We are callous about the damage that the shutdown is doing to people. It is said that some of this is political. Democrats want to prolong the suffering because that will hurt Trump in November. I'm not so sure. Politics may give people some kind of permission to be oversensitive, but the condition itself seems to be based on something else. A friend of mine who is very religious says that not believing in God is one factor. Serious believers assume that God will not allow utter catastrophe, particularly from a natural event. Theologically, this is preposterous and vicious. It means that God willed these deaths in particular. What did these people do? But as an overall indicator of faith in the future, it explains something. There are different ways to think about "the world to come." The quote above and the traditionally religious.

Title: Why Can't We Be Reasonable? Because There Is No Such Thing As Reason

Date: 2020-05-11T10:29:00.002-04:00

5/11/2020—In the middle of a pandemic, one group acts irresponsibly and meets in groups of 150 in close contact, without masks, led by a Pennsylvania State Senator. Another group says we should stay shutdown even though the case numbers have flattened and more deaths may arise from the shutdown at this point than the virus. Even a great Governor like Andrew Cuomo cannot bring himself to admit that he is actually balancing one set of lives against another. We can't make difficult judgments. So we over simplify our choices. Why not? The answer is not just because judgment is hard. It's actually because we have been taught that there is no such thing as reason. In my own discipline of law, no one, no one, no one, will defend the possibility of reasoned judgment. Right or Left. Scalia ridiculed it. But no one on the Left practiced it. (Scalia's point was that you couldn't even begin to reason about abortion without talking about the status of the unborn, which the Justices upholding Roe would not do. And why do we not believe in reasoned judgment. Because there is no starting point in the real. Want to see the Death of God. Here it is.

Title: Why Have Taxes At All?

Date: 2020-05-18T05:40:00.000-04:00

5/18/2020—A story in the New York Times said what everybody already knew—the emergency we face economically requires any spending we can muster whatever the effect on the deficit. Much like a war. But, if this were a normal time, then when we reopened, we would try to bring the deficit down. That would not be so difficult, since these payments are one-time and not recurring—not like social security. The real danger is that since the Fed is buying Treasury bonds—essentially just printing money—we now believe or want to believe that deficits don't matter. Really don't matter. At that point, why have any taxes at all? This is the lesson taught by what is called Modern Monetary Theory. It says in effect that the old model of a nation's budget being like any person's budget is false. Government just issues money and should do so until full employment is reached. Debt is not "paid back." I am not an economist. But I do know snake oil when I hear it. MMTP—and practice—is just like the old supply side idea. Cut taxes and you will have more money come in. The point is that we have no problem believing this for the same reason we have no problem believing that the virus will disappear or global warming is not real. It's reality we don't believe in. Reality and its limits on anything we want to do. Why should unserious people like this sacrifice? Live within limits? Wear masks? Have an inconvenient child? Be limited by the resources of the planet? Once you don't live in reality, there are no limits. But reality has the last word.

Title: Dropping the Flynn Case Was the Right Thing to do

Date: 2020-05-20T07:24:00.003-04:00

5/20/2020--this week's column in the Pennsylvania
Capital-Star.

Title: Every Once in a while...

Date: 2020-05-23T15:52:00.000-04:00

5/23/2020--every once in a while, you remember that politics is not life. Your political opponents are not your enemies. There are a number of terrific Republican Governors. Here is Doug Burgum of N. Dakota with an emotional plea to the anti-mask crowd. Can Joe Biden rescind Rush Limbaugh's Medal of Freedom on the ground that he knowingly endangered innocent people by telling people not to wear masks? I feel the same way about the anti-vaccine crowd.

Title: Regarding This Moment

Date: 2020-05-31T06:38:00.001-04:00

5/31/2020--On Friday, David Brooks tweeted, "This has been one of the worst weeks of our collective lives: 100K dead, an economy still collapsing, racism, murder, conspiracy mongering, a president more contemptible by the day. Hang in there. It will get better." At this same time, I am working on Chapter 1 in my upcoming book, *The Universe Is On Our Side: Restoring Faith in American Public Life: The Breakdown in American Public Life*. But, what is that breakdown? Brooks is discouraged. That is not surprising since he has no ontological foundation. That is, his native optimism is not grounded in the nature of the universe. Thus, all he can say is, "Hang in there." But the bright prospects of hope are absolutely present in his array of bad news. President Trump, for example, is undoing himself. Trying to court black voters, he threatens to have protestors shot. Trump is more concerned with stores than with black lives taken by rogue police officers. Well, that is not shocking, but to see it only a few months before an election.... And Trump's baselessly accusing a private citizen of murder? His media supporters recoil. And racism--what would you have said if, in the course of human lifetime, police brutality went from intentional policy to a charge of murder? If the casual racism of white Americans would be captured on a video and exposed and condemned by the whole country? Where young, and younger, people naturally feel outrage, an old man like me can see only the most amazing progress. America is finally purging itself of racism. It will not be long before the police are widely regarded as a force for protection among all communities. That is why Trump's call for violence against the protestors fell so flat. The country mourns two acts of senseless violence--the deaths of George Floyd and Dave Patrick Underwood. They are martyrs to a future of peace. And the virus--receding. We could have done better. But the truth is, we don't really know what works even now. And the economy is actually improving. It will get better. But not because of some mindless optimism. It will get better because the arc of the moral universe is long, but it bends toward justice.

Title: Why Have Taxes At All?

Date: 2020-06-03T08:35:00.002-04:00

6/3/2020--Today's column in the Pennsylvania Capital-Star.

Title: On Criticizing Our Side

Date: 2020-06-05T22:07:00.000-04:00

6/5/2020—Pat Robertson did a very important thing when he said of President Trump’s church performance, “You just don’t do that, Mr. President,” he said, and added, “We’re one race. And we need to love each other.” Liberals and Democrats will exult, of course, which is why we find it so hard to criticize our own side. But I am certain that Robertson thought he was doing something important for the President, for the country and for the church. It is the only way that our leaders can really be restrained. We owe it to ourselves and them to criticize in those ways that will hurt politically. How many on the left would have done that?

Title: James Bennet Resigns

Date: 2020-06-08T06:27:00.002-04:00

6/8/2020--It is a sad day. The New York Times allowed James Bennet to resign because he greenlighted an op-ed by Sen. Tom Cotton of Arkansas. The newspaper failed to support Bennet, the op-ed editor. If you go to the op-ed now, here is the statement by the paper. ***** Editors' Note, June 5, 2020: After publication, this essay met strong criticism from many readers (and many Times colleagues), prompting editors to review the piece and the editing process. Based on that review, we have concluded that the essay fell short of our standards and should not have been published. The basic arguments advanced by Senator Cotton — however objectionable people may find them — represent a newsworthy part of the current debate. But given the life-and-death importance of the topic, the senator's influential position and the gravity of the steps he advocates, the essay should have undergone the highest level of scrutiny. Instead, the editing process was rushed and flawed, and senior editors were not sufficiently involved. While Senator Cotton and his staff cooperated fully in our editing process, the Op-Ed should have been subject to further substantial revisions — as is frequently the case with such essays — or rejected. For example, the published piece presents as facts assertions about the role of "cadres of left-wing radicals like antifa"; in fact, those allegations have not been substantiated and have been widely questioned. Editors should have sought further corroboration of those assertions, or removed them from the piece. The assertion that police officers "bore the brunt" of the violence is an overstatement that should have been challenged. The essay also includes a reference to a "constitutional duty" that was intended as a paraphrase; it should not have been rendered as a quotation. Beyond those factual questions, the tone of the essay in places is needlessly harsh and falls short of the thoughtful approach that advances useful debate. Editors should have offered suggestions to address those problems. The headline — which was written by The Times, not Senator Cotton — was incendiary and should not have been used. Finally, we failed to offer appropriate additional context — either in the text or the presentation — that could have helped readers place Senator Cotton's views within a larger framework of debate.

***** The statement is absurd. These details are always present. Op-eds often assert "facts" that are not established. That is why they are on the opinion page. Especially sad is the last part about context. It is an opinion. Readers are not stupid. The first part shows the newspaper's cowardice. If the argument is newsworthy, it belongs in the paper. If the point is that Cotton is a racist fascist for wanting to call in the troops against the American people, then the paper should have said so. And added we don't publish racism. That at least would be an

Title: White Racism Matters

Date: 2020-06-20T12:14:00.000-04:00

6/20/2020--Take a look at this week's column, which I call, White Racism Matters.

Title: Is Every White Person a Racist?

Date: 2020-06-21T11:17:00.001-04:00

6/21/2020--KeepAll3 responded to my column in the Pennsylvania Capital-Star, below, as follows: "If @BLedewitz feels guilty because he used to be a racist, that's fine. But please don't project onto the rest of us. Thank you kindly." Just to be clear as to what I mean by racist, let me repeat: "For white racism is simply the feeling that this is my country. The feeling that the normal American is white. And, you can add, in the appropriate circumstances, straight and male. That is the sort of person most white people expect to see, hire, interact with, listen to and treat as an equal. This feeling is embedded in most of us. Overcoming it is hard work. Fortunately, among the young, you can tell it is less present." So, the first thing I have to admit is that it isn't that I "used to be a racist." I say in the column that white racism is like any other addiction--it does not disappear. You fight it every day. Second, I suppose there are white people my age who do not feel this way. That is why I use the word, "most." But I admit it is hard for me to believe. No one ever taught me to be racist in this sense. I was very, very close to a black woman growing up, Gertrude Falls, whom I loved deeply. Nevertheless, I thought of white people as the norm and I still would if I did not consciously think about it. So, I don't really understand why other white people would feel differently. But if they do, great. I am happy to apologize to KeepAll3 right here and now. And I know many young people feel differently. In fact, that is a large part of my hope for America's future.

Title: Report on The Universe Is On Our Side

Date: 2020-06-27T05:30:00.001-04:00

6/27/2020--Readers of this blog have noticed the dearth of material over the past month or so. I have been hard at work writing the first draft of the book that will be published by Oxford University Press next summer--The Universe Is On Our Side: Restoring Faith In American Public Life. I want to report that yesterday I finished Chapter 6--of a likely 10. So, more than halfway there. So, watch for my continuing column updates here, but there will not be too much more material posted probably for another month. In August, I will return with more regular reflections.

Title: Originalism Is Dead

Date: 2020-07-01T06:15:00.001-04:00

7/1/2020--I write this as the Adrian Van Kaam C.S.Sp. Endowed Chair in Scholarly Excellence. My 5-year appointment began today. My thanks to Dean Barton, President Gormley and Duquesne University, my home since 1980. *Espinoza v Montana Dept. of Revenue* (2020), decided yesterday, is just the latest indication that this Court is going to protect religious believers as its core commitment. That is what following the election returns means. The decision, effectively that the no-aid provision in the Montana State Constitution is unconstitutional, means that State aid must go on an equal basis to parents of students who would use the money to attend religious schools. (the details in the case involve tax credits, but this is the new rule). This differs from *Zelman* in 2002 that held that school vouchers could be used for religious schools without violating the Establishment Clause. Now such programs must include religious schools. The decision is fine with me. But, as I have been saying since *Trinity Lutheran Church* in 2017, it means that originalism is dead. This is not what the free exercise clause meant when it was adopted. Want the law to adapt, great. Think the framers were overly concerned about religious separation, me too. Just don't call yourself an originalist.

Title: Happy Fourth of July

Date: 2020-07-04T06:24:00.001-04:00

7/4/2020--I cannot write my book fast enough. Now David Brooks writes about "a pervasive loss of national faith." I have a whole Chapter on that, which will not come out until next summer. Well, presumably we will still lack faith then. It is a really simple idea. We lack faith because the object of faith, God, died. Once that occurred, all the selfishness and banality became inevitable. Easier to tell the story than to do something about it. But all we need is a substitute for God--but not an idol. The universe will do. The universe is on our side and that will be the beginning of a new faith. So, I have just given my book away, a year early and for free. But at least my readers can have a happy fourth.

Title: Trump Threatens University Tax Exempt Status

Date: 2020-07-12T03:15:00.003-04:00

7/19/2020--This week, President Trump threatened the tax exempt status of schools that, he said, indoctrinate with left-wing propaganda, rather than educate. This comment shows how dangerous he is, of course. But let's assume nothing comes of it. Where are all those religious voices ready to go to war because they feared Hillary Clinton would threaten their tax exempt status? Where are all those so-called constitutional conservatives? If they have denounced the President, I haven't heard about it. The destruction of constitutional liberty is threatened because many of those who claimed to care about the Constitution did not do so when the threat came from their side.

Title: The Fantasyland of American Public Discourse

Date: 2020-07-14T10:33:00.002-04:00

7/14/2020--It is now obvious that Dr. Graham Snyder of UPMC was correct that there is now a new, more transmissible, much less dangerous virus strain. (Story here). That is why infections are up, but deaths and serious cases are not. This is very good news. Why are we not hearing about it? The media do not want to run this story because they are committed to running President Trump into the ground. But we don't hear it from the President either, because the virus is still dangerous. The Democrats are making a mistake in linking themselves to this narrative that we are in a more dangerous position. We are not. Infections have been going up for almost a month. And still, yesterday, there were nationally 465 deaths on Monday. In March there were over 3000 deaths a day. And it makes no sense to then move the goalposts by talking about serious illness. Dr. Snyder noted that almost no new cases require respirators. Why cannot we have a reasonable conversation in this country? You still wear a mask but you can now concentrate on protecting the most vulnerable. Things can pretty safely reopen.

Title: For the Sake of Religious Liberty, We Need Universal Healthcare

Date: 2020-07-15T07:21:00.000-04:00

7/15/2020--This week's column.

Title: No Federal Police Power

Date: 2020-07-24T11:29:00.001-04:00

Title: No Federal Police Power

Date: 2020-07-26T06:25:00.000-04:00

7/26/2020--This Summer, as I was writing the book, *The Universe Is On Our Side*, the first and second drafts of which are now finished, I have not been blogging here. Instead, I have been just directing readers to my columns in the *Pennsylvania Capital-Star*. Well, there are also columns that are not written. This week's column is about GOP efforts to interfere with the courts. But that is not the column I set out to write. Last week, the people of the United States were unsettled by threats from President Donald Trump to send federal agents into several American cities to combat murder and violence. So, I set out to write about the absence of the federal police power--that is the power enjoyed by State government to act for the health, safety and welfare of the citizenry. A government of general powers has the police power. The federal government, in contrast, is a government of limited powers. Thus, it lacks the police power. That is why Trump lacked authority to do what he proposed to do. There were also separation of powers issues. Domestically, the President has only the power to enforce the laws, not to keep order. He can protect federal property, as in Portland, Oregon, but cannot combat ordinary crime. That was another reason, Trump could not do what he said. However, when I set out to write the column, it turned out that the whole thing had been a hyped up nothing. Here is how the column was to start: "On Wednesday, July 22, President Donald Trump announced that he would be sending hundreds of federal agents into several American cities to confront a rise in shootings and other violence. This is an action he has no constitutional authority to take. Fortunately, Attorney General William Barr explained that the Justice Department would be sending 200 additional agents to Chicago and 35 to Albuquerque to beef up violent crime task forces that already work with local police. This is not only constitutional, it is commonplace." So, after all the talk, and threats, all the President planned to do was to send more agents to help local police as federal agents had already been doing. This involves enforcing certain narrowly defined federal laws, such as certain drug laws and organized crime and gang laws. It is not patrolling the streets and it is not solving and preventing murders when local government cannot do so. I am glad the column did not have to be written, but it is a token of how Trump governs that he made these threats when he, or at least those around him, knew that nothing of the sort was planned. This is real pathology. But I guess you would have to call it political pathology rather than a constitutional crisis.

Title: GOP Meddling with the Courts

Date: 2020-07-29T11:27:00.001-04:00

7/29/2020--this is the column instead of the one on the federal police power. Dishonesty in Washington and structural racism in Harrisburg.

Title: The Power of Prayer

Date: 2020-08-05T15:49:00.000-04:00

8/5/2020--I wrote in a draft of my book that one way you know that this culture does not believe in God is that no one prayed for America to be spared the virus. Not in public, in a serious way. Nor did anyone try to find out why God did this. In other words, we effectively treated the virus as a wholly natural event. That is appropriate from a naturalistic, modern perspective. But not from a Biblical one. The omnipotent creator God of the Bible is entirely free to bring or stop a virus. And does things like that all the time. There might be a theological reason not to ask to be spared God's judgment, but even Jesus prayed that the cup pass from him. This is what I mean when I say God is dead. That supernatural being who does tricks is gone. Not for everybody of course. But for the culture. That is why we are so suspicious of Tanzania. There, the President, John Magufuli, says there have been no cases since April because of the power of prayer. We know he is covering up, but why are we so sure?

Title: Latitia James's Tyranny

Date: 2020-08-07T07:14:00.001-04:00

8/7/2020--The New York Attorney General is suing to dissolve the NRA. She has jurisdiction because the NRA is a non-profit charitable organization registered in New York. Dissolution of charities is a rare but not unheard of remedy for corruption and self-dealing that renders a purported organization essentially a fraudulent front. The issue in this instance is, of course, that the NRA is one of the most effective political organizations in America and it opposes Latitia James's Party. Yet, no outrage at this obvious government overreach. Sure there is self-dealing in the NRA. The people involved can be separated from the organization and/or jailed for fraud. But imagine if the government had sought the dissolution of the Teamsters under Jimmy Hoffa. Then the Left would see danger. But not in the case of the NRA. Lest anyone doubt the politics of this, here is a quote from another story: "Gun control groups such as Everytown for Gun Safety and Moms Demand Action, both funded by billionaire and former New York City Mayor Michael Bloomberg, praised the suit." In 2018, the ACLU filed an amicus brief on behalf of the NRA. I hope the group, of which I am a member, does the same this time.

Title: First They Came for the NRA

Date: 2020-08-11T06:55:00.000-04:00

8/11/2020--I wrote today's column in the Pennsylvania Capital-Star on the topic of the entry below.

Title: How Can the Sacred be Regained?

Date: 2020-08-13T05:18:00.001-04:00

8/13/2020--The quotes below are from an op-ed by Thomas Friedman: [Beirut's Blast Is a Warning for America](#). The subhead was, In this country, as in Lebanon, everything is now politics.

Friedman was quoting Moshe Halbertal:

“For a healthy politics to flourish it needs reference points outside itself — reference points of truth and a conception of the common good,” explained the Hebrew University religious philosopher Moshe Halbertal. “When everything becomes political, that is the end of politics.”

“When you lose the realm of the sacred, that realm of the common good outside of politics, that is when societies collapse,” said Halbertal. That is what happened to Lebanon, Syria, Yemen, Libya and Iraq. And that is what is slowly happening to Israel and America.

One thing about the column is odd—all these countries mentioned are among the most religious in the world. So, one question Friedman is not interested in is how is it the religions of the book—Islam, Judaism and Christianity—lost the sacred?

I believe this happened because of the Death of God, which has absolutely penetrated everywhere. Religion loses its capacity for creativity because it fears the universe instead of having faith in it. Do you hear the Orthodox in any religion say, we shall have peace because with God all things are possible?

If these religions had not lost God, there would be much more serious cross boundary worship, as there was with Martin Buber. The Rebbe would have been capable of this. Pope Francis is. It is rare. God is Dead.

But, in rapidly secularizing America, we have to ask another question—how does secularism recover the sacred?

You don't get the answer for a year, which is when my new book will be published. It is all about how to recover the sacred. It is called *The Universe Is On Our Side: Restoring Faith in American Public Life*.

Here is the abstract: *There has been a breakdown in American public life that no election can fix. Americans cannot even converse about politics. All the usual explanations for our condition have failed to make things better. Bruce Ledewitz shows that America is living with the consequences of the Death of God, which Friedrich Nietzsche knew would be momentous and irreversible. God was this culture's story of the meaning of our lives. Even atheists had substitutes for God, like inevitable progress. Now we have no story and do not even think about the nature of reality. That is why we are angry and despairing. America's future requires that we begin a new story by each of us asking a question posed by theologian Bernard Lonergan: Is*

the universe on our side? When we commit to live honestly and fully by our answer to that question, even if our immediate answer is no, America will begin to heal. Beyond that, pondering the question of the universe will allow us to see that there is more to the universe than blind forces and dead matter. Guided by the naturalism of Alfred North Whitehead's process philosophy, and the historical faith of Dr. Martin Luther King, Jr., we can learn to trust that the universe bends toward justice and our welfare. That conclusion will complete our healing and restore faith in American public life. We can live without God, but not without thinking about holiness in the universe.

Title: Listen to the Podcast Ikthos

Date: 2020-08-19T07:46:00.002-04:00

8/19/2020--I was interviewed by Felicia Gaddis on her podcast, Ikthos, here. It was a lot of fun. First time I talked in public about the book.

Title: Evil Geniuses

Date: 2020-08-23T17:29:00.000-04:00

8/23/2020--The book review in the NY Times today makes me want to read this book. It tells the tale of a change in consciousness in America beginning in the 1970s that is the result of a cabal of right-wing thinkers and the wealthy. As described, the story makes no sense. Ronald Reagan ran on this very platform in 1980 and was very popular. So, how could there be this change then? Everything the book review mentions--all the interrelated ideas and institutions came later. Plus, when Donald came on the scene, the edifice more or less collapsed. But, I have to read it.

Title: The Case for Trump

Date: 2020-08-25T07:48:00.000-04:00

8/25/2020--I have accused conservatives of a fixation on the courts when President Donald Trump represents a grave threat to constitutional government. I have found the continuing support for Trump impossible to understand.

Then Randy Barnett, the most thoughtful of American conservative constitutional theorists, wrote this tweet:

Aug 23

Replying to

@RandyEBarnett

and

@JonahDispatch

In the 2016 primary, for this and other reasons, I preferred another candidate. But I and others have been pleasantly surprised at the governance of his administration. Dismissing the relevance of this, or the likely administration of his opponent, seems wrong to me.

This helps explain a lot. In Barnett's view, you have to look at what the Trump Administration has actually done rather than the instincts of the President. Barnett calls the latter, the character issue.

In governance, Barnett presumably means things like the Iranian agreement and deregulation. He ignores the tax cut that led to higher deficits--deficits have never been his thing.

That latter issue also suggests that he is thinking of the contrast of Trump with a Democratic Administration. That Administration would threaten liberty in a more basic way than Trump does. For example, religious liberty, the right to bear arms and economic freedom--all fundamental issues for Barnett.

But, I still do not understand the structural blindness. Trump's instincts are not just a "character" issue in the personal morality sense, but a political character issue. He would prefer that the federal government only deal with governors who flatter and agree with him--VP Pence refused to do that in the case of the Governor of Michigan. He feels he has the right to tell the states how to conduct voting so that it benefits him. He asks a foreign government to investigate an American citizen. He suggests we delay the next election.

My problem with Trump is something I never even thought of with a President Bush. I'm not sure that if he is re-elected in 2020 that there will be an election in 2024. That is not something that Barnett has to worry about in the case of Biden and the Democrats.

Even if that is only a small risk, it is not a risk that any constitutional conservative has the right to take.

Maybe this depends on the importance of democracy versus certain forms of liberty. Could one

favor a benign dictatorship that protects liberty over a democratically elected despotism. Is that trade off at the heart of conservative willingness to overlook Trump's dictatorial tendencies?

Or is it, as Barnett suggested later, that my fear of dictatorship is simply a paranoid fantasy on my part that no conservative has to take seriously?

Title: What Libertarians Get Wrong About Masks

Date: 2020-08-27T07:23:00.002-04:00

8/27/2020--This week's column in the Pennsylvania
Capital-Star.

Title: "art is not enough, but art is all we have"

Date: 2020-09-06T10:26:00.001-04:00

9/6/2020--One of the saddest book review/essays I have ever read is by the writer Rumaan Alam, reviewing *Collected Stories* by Lorrie Moore in the *New York Review* August 20, 2020 issue. (here). It's a really good review. Alam admires Moore's work and has great insights into it. But he detects and shares a decline in optimism over the years: "In the decade that elapsed between *Birds of America* [1998] and *A Gate at the Stairs* [2009], that premillennial optimism—we thought Al Gore would be president!—hardens. ...The writer sees the world differently now, and maybe with the wisdom of age, it's more difficult to sustain optimism." But it's not really a matter of optimism or pessimism. It's worse than that. In the end, art does not console us. But nothing else does either. That conclusion is the source of Alam's last line--"This story reminds us that art is not enough, but it is all we have." But is it all we have? In terms of my new book, Alam answers no to Bernard Lonergan's question, is the universe on our side? You can build a civilization out of the no, but it is not easy to do so. Nor is it necessary. There is also a potential yes, even for those who do not believe in God. That is the secret of renewal.

Title: This Week's Column--Tribalism

Date: 2020-09-10T07:14:00.001-04:00

9/10/2020--link to this week's column in the Pennsylvania
Capital-Star.

Title: Mark Tooley on George Weigel/Judge Pryor on the Court of History

Date: 2020-09-12T07:55:00.003-04:00

9/12/2020--I have this unfortunate tendency to lecture Christians on the meaning of the Gospel. As a self-professed non-believer, as a hallowed secularist, this must irritate believers. I don't blame them. It's just that I don't hear the Gospel preached.

Two recent examples.

Mark Tooley, the very thoughtful President of the Institute of Religion & Democracy, interviewed the Catholic thinker George Weigel on the theme Will America Choose Liberty or Anarchy? This drove me crazy. As if Trump represents liberty. Trump represents tyranny--ask any business owner he pushes around. As if the protests of people getting America to finally confront its racial sins represent anarchy.

Justice looks like anarchy when you are in power. A man who enters by pushing on an infirm door gets an unjustified reputation for violence. What about the state of the door. (And a man who at 68 can still endorse his high school yearbook quote has obviously not learned very much in a lifetime).

Anyway, I complained to Mark, whom I don't know personally and who took the time to gently remind me that Weigel did not support Trump, which is true. In 2016, Weigel urged people to vote for neither Trump nor Clinton.

But this was incredibly bad theology. Trump represents a spiritual harm to the Church in a way Clinton never could--I don't care how pro-choice she is. In a Clinton presidency, the church, or much of it, would have confronted what it viewed as evil. It would have been wrong in many ways in my view, but it would have borne witness. In a Trump presidency, the church--its leadership and many of its congregations--have aligned themselves with the evils of power and in this way have shamed the Gospel. That is by far a greater harm.

Say what you will about Hillary. She would never use a Bible as a photo op.

The second example is 11th Circuit Chief Judge Bill Pryor, who wrote a separate concurrence in a case upholding Florida's requirement that fines be paid before felons could reclaim voting rights.

The dissenters wrote that prior cases upholding voting rights "will be viewed as kindly by history." Pryor could not stand that. He wrote, There is no court of human history.

South Texas Law Professor wrote favorably about this in [Reason](#).

Here is a fuller quote. *Our duty is not to reach the outcomes we think will please whoever comes to sit on the court of human history. The Constitution instead tasks us*

with "administering the rule of law in courts of limited jurisdiction," id. at 1343, which means that we must respect the political decisions made by the people of Florida and their officials within the bounds of our Supreme Law, regardless of whether we agree with those decisions. And in the end, as our judicial oath acknowledges, we will answer for our work to the Judge who sits outside of human history.

Professor Blackman writes that appeals to history "no longer have any meaning for me." They represent "mythology."

This is the same nihilism that AG William Barr demonstrated when he was asked how history would view his decisions: "I am at the end of my career. Everyone dies, and I am not, you know, I don't believe in the Homeric idea that, you know, immortality comes by, you know, having odes sung about you over the centuries."

Conservatives have now abandoned Martin Luther King, Jr.: the arc of the moral universe is long but it bends toward justice. Oh, and I should add that in the Judeo/Christian tradition, God does not sit outside human history. When you abandon justice, you abandon religion too. I have no problem with a judge saying his role is to follow the law and sometimes not follow justice. But don't tell me there is no such thing.

Title: Happy New Year

Date: 2020-09-20T10:48:00.007-04:00

9/20/2020— Today is the second day of Rosh Hashanah in the Jewish calendar. I have not been able to write High Holy Day blog entries for a few years. This year was no exception. But I would like to mention that one of the difficulties in establishing a really satisfying secular life is the absence of holy days. For a Jew, the month before the High Holy Days, Elul, is one of introspection in preparation for the holiday period. Then, there is the sense of possible new beginnings in the New Year itself. When does the secular person engage in such introspection? When is the possibility of new beginning really present? For us, one day tends to be like another. It is not a problem yet solved. In fact, it is not yet a problem seen as a problem.

Title: Today's Column on the Confirmation Fight

Date: 2020-09-22T07:39:00.001-04:00

9/22/2020--In their lust to control the Supreme Court, conservatives lied to the people in 2016 and now want to change the "McConnell rule". Let the people decide. Today's column.

Title: It Is Fitting that President Trump Contracted the Virus

Date: 2020-10-03T07:52:00.003-04:00

10/3/2020--Believe me, I pray for the health of President Trump every day. Not only do I genuinely not wish serious illness on anyone, I don't want a new Presidential race with a President Pence replacing President Trump. Trump is losing and my goal is to get rid of the Administration currently in power. But, why should I not say that there is a fittingness about the man who did more to discourage simple steps against contracting COVID-19--wearing a mask and socially distancing--actually contracting the virus? The truth is, he deserved what happened. Of course, you can't say such things in public. I only can say them in the relative anonymity of a blog read by only a few. Not even on Twitter. Trump's supporters now say he did not mock Biden for wearing a mask and wore one himself when appropriate. But this is not entirely true. For weeks he would not wear one at all. And he did everything he could to minimize the importance of such steps. No one can really figure out why President Trump acted this way. Yes, he wanted to minimize the virus in order to open up the economy. But masks and distancing are ways to reopen, not ways not to. Duquesne University is open now because we vigorously adhere to these practices. So we can be in person in ways other schools are not. The same could be true of the economy as a whole. But then who said President Trump is rational. Often he cannot pursue even his own self-interest--see condemning white nationalism. Anyway, I am assuming that neither he nor any member of his family is seriously ill. He does not seem to be. As long as that is the case, his illness simply unhinges his campaign--both because he cannot campaign and also because he is exposed as reckless and uninterested in protecting the people of the United States. He encouraged people to act in ways that made it more likely that they would get sick and then he got sick. That is fitting.

Title: The One Religious Question Barrett Should Not Have to Answer

Date: 2020-10-07T06:52:00.002-04:00

10/7/2020--this week's column in the Pennsylvania
Capital-Star. Let's see if the Dems read it.

Title: Anti-Racism

Date: 2020-10-18T07:31:00.001-04:00

10/18/2020--I was just reading the April, 2020 review of *The Shadow King* in the *New York Review*. Colin Grant quotes the raw racism of the Italian writer Ferdinando Martini about the 1935 invasion of Ethiopia by Italy. It was shocking to read. "One race must replace the other; it's that or nothing...whether we like it or not, we will have to hunt [the native] down and encourage him to disappear, just as had been done with the Redskins, using all the methods civilization—which the native instinctively hates—can provide: gunfire and a daily dose of firewater." I quote this language because nothing but his own words would communicate that racism in its power. This is a lesson in anti-racism. Two faculty members have left Pittsburgh Universities in recent weeks over the use in class of the word N*. I have no need to write the word out here because I am not trying to show the power the word had. But these educators were trying to do that. I now want to repeat that raw racism has to be shown--it cannot be described. It must be quoted. Who was let off the hook in these incidents? In my view, white students who will never understand what people of color confront every day even now--see the recent incident involving Gisele Fetterman (here). Details matter and I not defending the actual conduct of the professors in question. But I am defending two principles. First, racism must be permitted to speak its awful message if it is to be understood and confronted. Second, while the classroom should never be hostile to students, it must often make students extremely uncomfortable.

Title: Get Rid of the Filibuster--but don't pack the Court--Capital-Star

Date: 2020-10-21T09:43:00.002-04:00

10/21/2020--This week's column in the Pennsylvania
Capital-Star (here).

Title: Will the Supreme Court Survive This Treachery?

Date: 2020-10-27T05:53:00.002-04:00

10/27/2020—I don't know. I guess it depends on how Justice Barrett votes. Of course she will vote to overrule Roe. How about the minimum wage? Don't the Republicans see the damage they have done in their lust to control the Supreme Court? They said in 2016, Let the American people decide. But in 2020, they feared the American people. If Donald is reelected and the Republicans are returned to power in the Senate, she could have been nominated and confirmed in a normal way. She would have been a legitimate Justice. Now she is just another ambitious politician. I wonder if Amy Barrett even considered asking Mitch McConnell and Donald Trump to wait—to have some faith in the American people? How will she feel if next week the American people show they don't want the people who put her there? She cannot believe what she says—that her policy preferences do not matter. Her approach to interpreting the Constitution is a policy preference as far as she has ever said. I tweeted that the saddest thing about this is that the perpetrators will call themselves innocent if the American people destroy judicial review in self-defense.

Title: Looks Like President Trump Was Reelected

Date: 2020-11-04T04:19:00.003-05:00

11/4/2020—I just looked at a map and checked my arithmetic. Even if Joe Biden wins Pennsylvania, which I still expect considering how many mail-in ballots remain to be counted, President Trump will still have been reelected. In fact, he will have done better in the popular vote than in 2016. Considering that he is a terrible man who has done a terrible job, it is hard to understand. Certainly Biden ran the race he meant to run. The American people did not reject this President. I cannot even really blame the Electoral College. Even though Biden did win more votes, it was not as decisive as in 2016. Trump did much better than last time. And Biden in the end could not win North Carolina, Georgia, Michigan or Wisconsin. That is a pretty representative group of states. If the country did not reelect him, exactly, it did not reject him. And that is very strange to me. *Hold the presses. Wisconsin now leans blue. Pennsylvania may still be in play. But even if he loses, how did Donald get this close again?

Title: Count All the Pennsylvania Ballots--Conservative Justices Are Seeing the Ghost of Bush v. Gore

Date: 2020-11-05T07:30:00.004-05:00

11/5/2020--This week's column in the Pennsylvania Capital-Star suggests that Justice Alito is misreading what the Pennsylvania Supreme Court did in the 3-day ballot extension. He is refighting Bush v. Gore. But this decision was not 2000 all over again.

Title: Joe Biden Wins

Date: 2020-11-08T05:15:00.003-05:00

11/8/2020--I'm keeping the 4 a.m. day-after-the-election blog entry. I'm happy to say I always thought Biden would win Pennsylvania. But obviously I did not realize that the same things would happen elsewhere. When I saw Wisconsin tip blue at 4 a.m., I knew there was a chance for Biden. Before that, there was no chance even with Pennsylvania. It was a pretty good election for me. Trump is gone, which was a necessary element of any progress, but Democratic progressives were not successful. Woke culture does not sell politically. What does it mean going forward? See my next column. And, since Dems are unlikely to win both Georgia Senate seats, no Court packing.

Title: How I Reacted Last Time to Demands for Recounts

Date: 2020-11-10T06:15:00.005-05:00

11/10/2020--The great thing about a blog is that you have a record of how you reacted in the past to see if you are consistent. So, I looked back and I am proud of my column on Nov. 27, 2016. I wrote that I was sorry Hillary Clinton joined the recount effort. I made fun of the claims of irregularities. So, the fact that I am outraged by Trump's nonsense and the viciousness of other GOP leaders is not hypocrisy on my part. Sunday, November 27, 2016 Perfect Paranoia—Jill Stein's Recount

Title: We Need a National Party

Date: 2020-11-18T09:50:00.001-05:00

11/18/2020--This week's column in the Pennsylvania
Capital-Star.

Title: Reform the Electoral College

Date: 2020-12-02T07:51:00.002-05:00

12/2/2020--This week's column in the Pennsylvania Capital-Star. Not only is the Electoral College impossible to get rid of right now, it has its good points. But it is dangerous in its current form.

Title: This week's column--the future of the Supreme Court

Date: 2020-12-16T07:36:00.002-05:00

12/16/2020--the column appears here.

Title: Merry Christmas to All

Date: 2020-12-25T07:26:00.001-05:00

12/25/2020--Merry Christmas to all, especially to all of us nonbelievers. Christmas is the message of new hope that we need. Now if only we could frame myths for our own time.

Title: What Democrats Can Learn From Trump's Narrow Loss

Date: 2020-12-29T06:50:00.002-05:00

12/29/2020--this week's column in the Pennsylvania
Capital-Star.



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Title: Pa. Senate Republicans Need to Seat Dem. Jim Brewster--this week's column in the Pennsylvania Capital-Star

Date: 2021-01-11T11:23:00.001-05:00

1/11/2021--I have not been writing on this blog for awhile, because of my column. This week's column addresses a local issue in the Pennsylvania State Senate: the decision of the Republican majority not to seat the winner of a State Senate election because of a disagreement over ballot counting. You can read the column [here](#).

Title: Mike Kelly Got Closer than People Think to Stealing the Election for Trump

Date: 2021-01-28T10:27:00.001-05:00

1/28/2021--Pennsylvania Representative Mike Kelly tried to pull a fast one and then complained when it didn't work. This week's column in the Pennsylvania Capital-Star.

Title: New York Review Letter to the Editor Concerning Originalism

Date: 2021-02-05T11:45:00.002-05:00

2/5/2021--Back in December, I read a review of The Essential Scalia in the New York Review. The review was by Harvard Law Professor Noah Feldman. I sent the letter to the editor below to the Review. Professor Feldman even tried to help me get it published, but the NYR publishes hardly any letters to the editor anymore, let alone one by a non-famous person. The point of the letter was that originalism gets much too much credit as a theory of interpretation. In practice it is not. That is the point that needs to be emphasized.

***** To the Editors: Professor Noah Feldman felt he was stuck with the self-professed terms of Justice Scalia's jurisprudence in his review of The Essential Scalia [NYR, Dec. 17]. Nevertheless, it was a mistake for him to treat Originalism as if it were an actual theory of constitutional interpretation. In practice there are no "principles" of Originalism. It is easy to see this. As Professor Feldman points out, a major promise of Originalism is that it constrains judges from imposing their policy preferences on the rest of us in the guise of interpreting the Constitution. Therefore, if conservative Justices abandon originalism in pursuit of ideological commitments, Originalism would lose any claim of legitimacy, or even coherence. In practice, this is what conservative Justices, including Justice Scalia, have routinely done. Just as examples, Originalism plays no role in free speech jurisprudence, anti-affirmative action cases or the crucial rules regulating who can sue for what, known as justiciability. These examples could be multiplied. Probably the most dramatic example of the selective invocation of Originalism is the line of Free Exercise cases, beginning with *Trinity Lutheran Church v. Comer*, requiring states to include religious institutions in government spending programs. As Professor Feldman has shown in his academic writings, this line of cases amounts almost to anti-Originalism. The danger of treating Originalism seriously as a theory of interpretation is that it allows conservatives to pretend to neutrality rather than defend their ideological commitments on the merits. As a living constitutionalist myself, I agree with many of the above decisions. But Originalism they are not.

Title: God and the Pandemic

Date: 2021-02-09T15:55:00.001-05:00

2/9/2021--It has gone out of style to conceive of God as sending COVID-19 as a way of punishing humankind. We don't believe in that kind of God anymore--which means we don't believe in God at all. A God who could never do that no matter what is just not God. A culture that believes in only natural processes is no longer in the Biblical tradition. If we were going to think of God that way, however, what sin would the virus be punishing us for? Karl Barth used to say that God punishes simply by leaving us along to do as we will. If so, we have so degraded the natural world that the emergence of a novel virus seems a fitting natural response. But try a different idea. What if God were showing us just what virtual life is really like. In other words, we wanted to live online and now we do. It turns out that what we really need is human contact. What is the virus signals the beginning of the end of our fascination with the Internet and social media? Now that would be a creative God.

Title: The San Francisco School Board Was Wrong to Remove Washington and Lincoln--this week's column in the Capital-S

Date: 2021-02-10T17:15:00.002-05:00

2/10/2021--The SF School Board forgot that we are all subject to the crimes of the age. My column.

Title: It Is Not Clear Whether Republicans Really Believe the 2020 Election Was Stolen--This Week's Column

Date: 2021-02-24T12:52:00.001-05:00

2/24/2021--I tried to take a nuanced view of the Myth of the Stolen Election in this week's column in the Pennsylvania Capital-Star. Many do. But research shows that losing partisans often feel elections were unfair, even without specific showings of fraud. We do need to be vigilant. One place to emphasize that the election was lawful is in the coming debate in the General Assembly over election integrity.

Title: A Hallowed Secularism Way of Life

Date: 2021-03-06T07:22:00.004-05:00

3/6/2021--In a New York Times column, Leigh Stein today raised the issue of a non-believers way of life--The Empty Religions of Instagram. Millennials who have abandoned organized religion are getting spiritual guidance from the Internet. And it's bad guidance. Stein cannot resolve the issue of course. She's not going back to any actual church. She refers vaguely to "something like church." I had the same problem in Hallowed Secularism--the book. What will a hallowed secularism way of life look like? There are, for example, Humanist groups that operate like churches. They don't seem to be growing, but maybe they will. There is a cultural Judaism organization. People with children especially need a structure to be part of. None of that seems sufficiently holy or challenging to me. I've been drifting since I left Judaism more than fifteen years ago. Once my new book comes out--The Universe Is On Our Side--I intend to return to this issue. Even my wrong answer might be part of answering this next big question.

Title: The Future of Mail-in Voting in Pennsylvania--the week's column

Date: 2021-03-09T06:58:00.002-05:00

3/9/2021--Republicans really misunderstood the lawsuit challenging mail-in voting after the 2020 election. They supported it, but the conservative Justices on the USSCt would have had to oppose it under the independent state legislature doctrine. It's an unhistorical doctrine to be adopted by originalists, but we appear stuck with it. So, what is the future of mail-in voting in Pennsylvania--this week's column in the Pennsylvania Capital-Star.

Title: Learning to Love One-Party Rule

Date: 2021-03-24T15:54:00.003-04:00

3/24/2021--this week's column in the Pennsylvania
Capital-Star.

Title: Happy Easter

Date: 2021-04-04T06:31:00.005-04:00

4/4/2021—C.S. Lewis used to say that Christianity is one great miracle. This is true and important because it measures the difference between religion and the secular very precisely. Lewis meant the incarnation, not the resurrection, but they are all one story, as he also said. The divine comes into nature and then rises, bringing nature, including us, with it. I have a stubborn streak—like Dr. McCoy in Star Trek. I cannot accept miracles—any interruption in the usual causal natural processes. This is not a logical position. The Big Bang was a miracle. We don't really understand anything about it. So, I have to admit that I don't want to accept the possibility of a miracle. Nor is this really experiential. I have experienced inexplicable interventions in my life—spiritual events without any sensible explanation other than divine action. But forgiveness of sin is not a miracle. Accepting this stance as a choice not to believe is helpful because I now have no reason to look down on religious believers. We have all made commitments, just different ones. The argument for the resurrection rests on a lot of evidence actually, not the least of which is the fact that 20 or 30 years after the death of Jesus, Jews are eating pork—about as likely as the Taliban putting on cocktail parties. But it's not for me. Nor for many others. In fact, we now live in a secular culture. The question going forward is a simple one—how to build secular civilization instead of the mess America is now. The answer is simple too but hard to do. First decide what flourishing secular civilization has to be—it has to be hallowed. (Hence the blog and book). Second make peace with religion as part of the resources to do that. (Hence American Religious Democracy), Third, accept that building secular civilization is a communal task, not an individual one. (Hence Church, State and the Crisis in American Secularism). Fourth, commit to a positive view of the universe as the basis of secular civilization—my upcoming book. Fifth, design a new secular life—with an eye toward calendar, the ritual of daily life, prayer and repentance. (my next book) Finally, adopt love as the basis of all life. This last step brings the secular right back into the neighborhood of religion.

Title: AALS Gets It Backward--This Week's Column in the Pennsylvania Capital-Star

Date: 2021-04-08T08:13:00.002-04:00

4/8/2021--You have to excuse my taking an author's prerogative. The AALS is putting on a program about the 2020 election and its lessons. See here. But the emphasis seemed to me to be backward. Democracy had to be "rebuil[t]." But democracy was just another way to criticize Republicans. Actually, democracy did pretty well in 2020. In contrast, the AALS feels that the rule of law merely needs to be "strengthen[ed]." I argue in this week's column that the rule of law is threatened by the belief, most notably in law professors, that judges rule by party, or want to. That there really are Obama judges and Trump judges, just as Trump once said. I tried to raise this issue by becoming a speaker at the conference, without success. Of course maybe I just don't express the issue well. Or I am flawed in other ways. But judging by how the conference turned out, I would say the AALS just doesn't want to look at law professors and our role in what's wrong.

Title: The Pro-Choice Case for Retaining the Hyde Amendment--This Week's Pennsylvania Capital-Star Column

Date: 2021-04-22T07:12:00.001-04:00

4/22/2021--My column here. It is possible that there might be some common ground on Hyde.

Title: The "America is racist" Controversy

Date: 2021-05-03T07:32:00.001-04:00

5/3/2021--Some years ago, the legal thinker Ronald Dworkin asked whether America was a religious country that tolerated non-believers or a secular country that tolerated religious believers. Every year I tell my students it was the worst question in the history of American public life. All such a question can do is divide people. It really means I'm an American and you're not. The insistence that America is a racist country reminds me of the Dworkin question. It is equally divisive and useless. And its uselessness in undoing structural racism is related to its divisiveness. Charles Blow's column in the New York Times today is a perfect example. He doesn't deny America's progress in fighting racism. He just wants everybody to acknowledge historic crimes and current conditions. But why does it follow from, "much American wealth was gained from slavery" and "America was stolen from the native peoples who lived here before Europeans came" and "racism still prevents people of color from fair treatment" that "America is racist." And if I feel loyalty to my country and believe that it may be the least racist county in the world--well, maybe after Canada--why can't I affirm that? The old song "Whose Side Are You On?" is stirring, but it is not fair.

Title: No, We Will Not Find God, But We Might Find Something Else

Date: 2021-05-04T06:52:00.002-04:00

5/4/2021--I respond today to Ross Douthat's column, Can the Meritocracy Find God in my column in the Pennsylvania Capital-Star.

Title: Opioids "make the world appear more meaningful"

Date: 2021-05-07T06:43:00.004-04:00

5/6/2021--I often have trouble explaining how the Death of God leads to the deaths of despair--that is, addiction, suicide, overdose etc. Helen Epstein had a very helpful insight in that regard in the New York Review, the March 26, 2020 issue, reviewing Deaths of Despair by Anne Case and Angus Deaton and We're Still Here, by Jennifer Silva. Epstein writes of the power of opioids that they stimulate the dopamine system in the brain, which "helps make the world appear more meaningful." That is the point of the Death of God. Under its influence, we lose our sense of a meaningful world/universe. Drugs, and much else, rushes in to fill the void. We need to fill that void in healthy ways.

Title: A Closer Look at the Pa Ballot Questions

Date: 2021-05-12T06:51:00.001-04:00

5/12/2021--This week's column in the Pennsylvania
Capital-Star.

Title: What Difference Does It Make If We Need God?

Date: 2021-05-25T14:36:00.005-04:00

5/25/2021--Read this review of THE UNBROKEN THREAD, Discovering the Wisdom of Tradition in an Age of Chaos, by Sohrab Ahmari and you will see the problem. Yes, modern life is a mess and we need God. But we don't have Him. And need is not enough. It has to work.

Title: I Might End Up Voting for a Republican--This Week's Column in the Pennsylvania Capital-Star

Date: 2021-05-26T06:48:00.005-04:00

5/26/2021--This week's column. Those amendments were also aimed at the Pa Supreme Court.

Title: The Hallowed Secular Talmud

Date: 2021-05-31T18:14:00.017-04:00

5/31/2021

Background

What can the Talmud, the sprawling multi-volume work of the rabbis from around 70-550 CE, teach the non-Jewish world? If the Talmud is a book of Jewish law, nothing.

But if the Talmud is one of the world's spiritual masterpieces, a great deal.

There was a Talmud project that had as one of its aims the introduction of the Talmud to non-Jews: the Talmud El Am of the 1960's. To me, it was the flowering and hope of liberal Judaism to found a new kind of Judaism by studying this ancient text in a new way. This was the hope of Rabbi Arnost Zvi Ehrman. But the project, and perhaps with it this hope, collapsed. Only a small portion of the Talmud was translated.

I have read that the Talmud El Am was also the work of the Jewish Theological Seminary in New York City. That would make sense. The JTS was, in 1965, the great emblem of modernizing Judaism—keeping the best of the old while looking to the future.

I suppose that Talmud El Am means the people's Talmud, but it might mean the eternal Talmud. (I have to find out). It turned out to be neither.

But why should anyone today care about this wayward Talmud project? With the destruction of the Temple by the Romans in 70, Judaism faced a crisis that was both theological and political. Politically, the destruction of the Jewish State, which was completed after failed revolts in 115 and 135, meant that Jews were leaderless. Most of the world's Jewish population even in 70 lived outside Israel. But all Jews had their eyes on Jerusalem as long as the Temple existed. Theologically, there needed to be a way of Jewish life without the rituals of the Temple.

The theological crisis was actually deeper than that. The rabbis sought to create a way of life not directly dependent on God. Efforts aimed at a radical expression of divine will through military action had proven disastrous. The motto of the rabbis would be, "It is not in heaven." Originally, that line from Deuteronomy indicated that God's will was present in the world. Now, it would mean that God was defeated.

We today are faced with the destruction of our own Temple—the structure of the creator God. We have not been able to forge a new way of life appropriate for this changed circumstance. We have to be as creative as the rabbis were.

Introduction

The Talmud is a compilation, with later commentaries, of two works: the Mishna and the Gemara. The Mishna was redacted around 200 and represents a kind of overall interpretation/interaction with the Old Testament. It consists of some of the discussions from rabbinical academies from that time.

The Gemara was redacted in Israel around 450 and in Babylonia around 550. The Babylonian version is considered the more prestigious. The Talmud El Am is a translation of the Babylonian Talmud.

The Talmud El Am begins with the traditional starting point of the Talmud, with the Tractate Berakhoth—Blessings.

Here are the first words: “From what time [may people] recite the evening Shema? From the hour that the priests come in to eat of their Heave-offering, until the end of the first watch; says R. Eliezer; the Sages say, Until midnight; R. Gamaliel says, Until the first light of dawn....”

In a sense, this one short paragraph tells the whole story of the Talmud. First, it begins with prayer. And not just any prayer, but with the central premise of Judaism: the Lord is one—the Shema.

For us today, this amounts to a declaration that we do not live in chaos. Everything is part of one whole. We and the universe are one.

The assumption of the Talmud is that we all know that the Shema is to be recited twice a day—when we rise and when we go to sleep.

So, already we learn the centrality of this starting point. Perhaps a secular way of life requires meditation in the morning and the evening on the unity of everything.

There is agreement on when one can say the evening Shema—when the stars appear. But this time is given in terms of the life of the priests of the Temple. In this way, the Talmud connects with that lost way of life. The Temple is always there. The discussion of that lost way of life amounts to a kind of science fiction.

Granted that after the stars appear, one may recite the evening Shema, how long does one have to recite it—before, in other words, it would become the morning Shema?

But there is a disagreement on this ending point. Eliezer—there is the view of Rabbi Eliezer ben Hyrcanos, one of the leading figures of the Talmud—the evening Shema may be recited until the end of the first third of the night. There is the view of the Sages—presumably the conventional and majority view—until midnight. And then there is the view of another vaunted figure, a contemporary of Rabbi Eliezer, Rabban Gamliel, the head of the Assembly in Yavne shortly after the destruction of the Temple.

We learn later that this disagreement is not really resolved. So, the second point is that a way of life can be reasoned about but probably not definitively determined. Law is not what it seems. Later, Gamliel will assert that whenever the Sages said until midnight, it always meant until dawn.

Finally, there is the juxtaposition of these two giants: Eliezer and Gamliel. It is their clash over the Oven of Aknai in another book of the Talmud that ends with the declaration that it is not in heaven. God's attempt to intervene directly in matters of law under discussion is not authoritative. Indeed, God himself accepts this limitation. God calls it a human triumph.

We'll have much more to say about that. But it is certainly worldly. Worldly enough for secularists.

Finally, there is Gamliel himself. Gamliel essentially sets the Talmud going by attempting to ensure that there is a full set of instructions for life after the destruction of the Temple. This is how the people will be kept together.

Because it is to be a way of life for all, Gamliel will contest against the more difficult interpretations of Eliezer. That will lead to their break.

But Gamliel will go further in enforcing a unity of interpretation. It is Gamliel who provides the final form of the Amidah, another central prayer. Gamliel adds the Blessing on the Heretics—presumably the early Christians. Thus, Gamliel is associated, by myth at least, with the final break between Judaism and Christianity. This would have occurred at the end of the first century.

One last point, association Gamliel with the break is exquisite irony. It was Gamliel's grandfather who, in the Book of Acts, warns the other members of the Sanhedrin not to molest the Jesus movement because it may be from God. His grandson breaks with him on this point seventy years later.

6/3/2021--Further Introduction The very first issue discussed in the Talmud is when the Evening Shema can be recited. It introduced the first few lines in yesterday's blog posting. The rabbis agreed that the evening Shema could be said only after the stars appeared—but that is not how the Mishna put the matter. There was a disagreement over how long a person has to say it. Then the Mishna tells a story about Gamliel's sons. They come home from some kind of event—a wedding?—and report to their father that they have not yet said the evening Shema and it is now after midnight. Can they still say the prayer? Gamliel responds that the majority rule holding that midnight marks the end point to say the evening Shema really means anytime before dawn. He goes further to opine that this is always the case with a "midnight" rule. The reason the rabbis said midnight was "to keep a man far from transgression." That is, so you would not fall asleep thinking you would say the prayer later and never say it. So the sons are "duty bound" to say the prayer. Think of all the issues this short episode raises. First, why hadn't everybody already said the Shema at the wedding feast? We have here the question of how stylized the Talmud is. Are these stories true at all? Did the entire population practice the arcane rules of the Talmud? And why are the sons only duty bound? Is there no penalty for a transgression like failing to say the evening Shema? Notice also that the Mishna does not conclude this episode with any conclusion. There remain three interpretations. That suggests that something other than law clarification is going on in the Talmud. Maybe all of Jewish law is an attempt to keep people far from transgression and all of it should be taken with a grain of salt. Finally, notice that law here is relational. The Talmud does not say what the law is in general. Instead, the law arises out of the relationships of people, here Gamliel's family.

Title: Putting the Hallowed Secular Talmud Aside for the Moment

Date: 2021-06-06T11:19:00.010-04:00

6/6/2021—I have the feeling that the struggles of the rabbis to put Judaism on new foundations after the destruction of the Temple by the Romans is similar to the problem secularists face today after the Death of God. We had an orientation toward reality and now we don't have that any more. So, at some point, I will have to take up the Hallowed Secular Talmud. I began to do that in blog posts below. But I know realize that this is premature. First, it is necessary to address secular society directly. The Talmud has to be one of many ways that secular life is furthered. The first step is to see that as the necessary task.

Title: We Need a Nov. 3 National Commission

Date: 2021-06-09T12:52:00.002-04:00

6/9/2021--This week's column in the Pennsylvania Capital-Star: Forget Jan. 6. We need a national election commission to fight the big lie of election fraud.

Title: None

Date: 2021-06-21T02:01:00.002-04:00

Title: What is the Future of Secularism?

Date: 2021-06-21T02:01:00.003-04:00

6/21/2021—I have wondered a lot about the future of secularism. My forthcoming book, *The Universe Is on Our Side: Restoring Faith in American Public Life*, is about the worldview of secularism. American culture is demoralized by the Death of God. We hate each other because we have no story of meaning in common. But there is nothing much in the book about the sociology of secularism—what its lifestyle looks like. I assumed that something like religious institutions had to grow in the place of religion. Austin Dacey, the author of *The Secular Conscience*, had the best answer for that back in 2009—he called it the fallacy of decomposition in an entry in *Religion Dispatches*: “The fallacy of decomposition is the mistake of supposing that as the estate of religion collapses, there must be a single new institution that arises to serve the same social functions it served—that the social space vacated by religion must be filled by a religion-shaped object.” It was never going to be that and Dacey explained why pretty sharply: When you think about it, organized humanism is a hard sell. Do you like paying dues and making forced pleasantries over post-service coffee cake, but can’t stand beautiful architecture and professionally trained musicians? If so, organized humanism may be for you. Greg Epstein (the “humanist chaplain” at Harvard and the author of *Good Without God*) is a lovely person, but I’ve heard him sing, and I think I’ll stick to Bach, Arvo Pärt, and Kirk Franklin for my spiritual uplift. Do we really need an institution for people who find Reform Judaism and Unitarian Universalism too rigid? Yes. It’s called the weekend. But I am coming to see that there is one arena in which something like religion is necessary—the raising of children. How is the spirituality of secular children to be addressed? If it is not addressed—and at present it really is not—the culture will substitute consumption and nihilism for any sense of depth of human life.

Title: How to Respond to Anti-Semitic Attacks--This Week's Column

Date: 2021-06-23T05:22:00.004-04:00

6/23/2021--My column this week in the Pennsylvania Capital-Star was scheduled to be about how to respond to anti-Semitic attacks. Before it appeared, the Jewish Federation issued a warning about harrassment and a possible attack this month in Pittsburgh. I was unaware of these incidents, but of course they sharpen the need for a response. We can all wear a kippah. This is from the column: Anti-Semitism threatens us all. We are all Jews. Just as police violence against persons of color is not just violence against them but against us all, just so here. As Dr. Martin Luther King, Jr., taught, "Injustice anywhere is a threat to justice everywhere."

Title: Follow up column in the Pittsburgh Jewish Chronicle

Date: 2021-07-03T21:39:00.003-04:00

7/3/2021--a guest editorial in the Jewish Chronicle--more on wearing the kippah.

Title: Better Than July 4, 2020

Date: 2021-07-04T15:00:00.004-04:00

7/4/2021--Happy Fourth of July to everyone--a lot better than last year. I want to share with my readers the opening of a section of Chapter 9 from my forthcoming book, *The Universe Is on Our Side: Restoring Faith in American Public Life*. We were already starting to do better, but July 4 might have been the worst moment of the year.***** Back from the brink Independence Day, 2020, was a dark time in American life. President Trump delivered a divisive and incendiary Independence Day Address, more like a campaign rally, promising to defeat “the radical left, the anarchists, the agitators, the looters...the angry mob” and to “protect and preserve the American way of life, which began in 1492 when Columbus discovered America.” Every racist dog whistle was sounded, every angry instinct provoked, despite the fact that the demonstrations had been mostly peaceful and, anyway, had mostly melted away by July 4. Mobs defacing statues were certainly not a national problem by that time. But it was not just President Trump that represented an American crisis. The pandemic caseload was spiking despite months of total or partial economic and social shutdown. Deaths had not yet caught up, but it was expected that they would. People were frightened and frustrated. Physical fights were breaking out in grocery and convenience stores over whether to wear a mask. It was also expected that the new surge in cases would interrupt, if not end, the budding economic recovery. At the same time, Russia was suspected of paying a bounty for the deaths of American soldiers. China had just ended Hong Kong's partial independence, which no international coalition seemed prepared to contest. Two American aircraft carriers were on their way to the South China Sea, signaling a new and dangerous level of confrontation with China. And it was hot. Really hot. And dry. Over most of the country. Climate change had not taken a break with the pandemic. It was at this moment that the New York Times columnist David Brooks wrote what might have been the bleakest July 4 message ever: *The National Humiliation We Need*. The column began with the American failure to rein in the virus. Because of that failure, Americans are depressed and many important economic and social institutions were about to go under. No matter what the upcoming election result in November—and Brooks thought the American people had already decided not to reelect President Trump—the economic future looked bleak, political division appeared to be permanent, racial discrimination remained, despite progress, and social capital was crumbling, including family formation.*****So, we have to say, on July 4, 2021, we have actually come through something and we really are in a better place.

Title: The Greatest Column Ross Douthat Ever Wrote

Date: 2021-07-05T16:06:00.001-04:00

7/5/2021--Ross Douthat wrote a column for the New York Times on April 4, 2021 that is arguably the best and most important he ever wrote. It was longer than the usual 800 words or so. It was on the front page of the Sunday Review--What Has the Pro-Life Movement Won?The assumption of the column was that the 6-3 conservative majority would probably do something to marginalize if not overturn Roe v Wade. But, would the country actually choose life?The answer was probably not, in part because the pro-life movement had never really been a utopian movement in favor of the lives of the unborn and their mothers. Instead, it had been a conservative appendage to Republican small government ideology. That is not a vision of life but of something much smaller.Utopian is the key. What is the pro-life world really to be?

Title: Yes, DA Zappala should go but not by a legal ethics probe

Date: 2021-07-09T06:49:00.002-04:00

7/8/2021--this week's column in the Pennsylvania
Capital-Star.

Title: How to Raise a Secular or a Religious Child

Date: 2021-07-10T06:49:00.002-04:00

7/10/2021--I am shopping around an article about how to raise a secular or a religious child. The basic idea goes to consistency and commitment. That is, if you believe in the God of a religious tradition, you owe it to your child to deepen that commitment and to affiliate with the institutions of that faith. You help your child form an identity in that faith tradition, which as Father Carl Chudy writes, is extremely important. Conversely, if you don't believe in God or the supernatural, and do not see your beliefs reflected in the teachings of any religious tradition, you need to communicate early and consistently with your child--a young child can perfectly well understand the circle of life from *The Lion King*. What we are seeing today is drift, both in adults and in the raising of children. That is not surprising: we are in the midst of an extremely rapid social transition to a secular society. But it is not good for children. What is the story of the meaning of life you hope to convey to your child? The irony is that one way to raise a secular child is with a meaningless religious upbringing. And one way to raise a religious child--a return to a more orthodox life or some cult--is for a secular parent never to address fundamental questions that every child has. I would like to set forth some of these ideas, but am having trouble finding an outlet--any ideas from a reader are welcome.

Title: Last Week's Column in Pennsylvania Capital-Star

Date: 2021-07-27T14:20:00.002-04:00

7/27/2021--I have been off for over a week due to family visiting. Last week's column concerned the retirement of Justice Stephen Breyer--I was urging him to retire now.

Title: The Universe Is on Our Side is now on sale on the OUP Website

Date: 2021-07-27T14:25:00.000-04:00

7/27/2021--Another matter that went unmentioned in the last two weeks on this blog is that my book, *The Universe Is on Our Side: Restoring Faith in American Public Life* is now on sale in advance on the Oxford University Press website. Go ahead and order your copy now before the rush.

Title: Give Trump the Presidential Medal of Freedom

Date: 2021-07-31T06:56:00.001-04:00

7/31/2021--I am sympathetic, more so than most, to the vaccine reactions. According to a recent New York Times story, the Delta variant often just flames out. We already know that masks are not really needed or that effective when you are vaccinated. We now know vaccinated people carry the virus and that they can contract it. But they don't get sick. I can't figure out why Tucker Carlson is so mad about these things--see his comments. By his own reasoning, the best thing to do by far is still just to get vaccinated, notwithstanding everything else he says. Anyway, in such a partisan and crazy environment, nothing can really be done. But one possible response is to go back to the source of so many of our problems--Donald Trump. It was Trump who understood early that nothing would help but a vaccine. He did everything he could to get them produced and he succeeded. So, let's give him the Presidential Medal of Freedom for his efforts. Trump would not be able to resist this. And his followers would watch. And they might then get vaccinated. It's worth a shot.

Title: The Startup Wife Shows We Need Help With Our Spiritual Infrastructure--This Week's Column

Date: 2021-08-03T07:53:00.001-04:00

8/3/2021--This week's column in the Pennsylvania Capital-Star is about Tahmima Anam's new novel, The Startup Wife, and what the book tells us about religion in America.

Title: Lale Gul Wants to Lie on the Beach in a Bikini

Date: 2021-08-14T07:09:00.002-04:00

8/14/2021—Lale Gul is a young Dutch novelist who has broken with the traditions of her Turkish immigrant family and has written a fictional account of her journey to secularism. The New York Times ran a story about her today. She says, “I’m done hiding. I don’t believe in God and the religious and cultural rules that were set for me.” To say I sympathize would be an understatement, since the same thing happened to me. To say I understand would be a gross overstatement since her family now shuns her and she has received death threats. Leaving liberal Judaism in America is a very different matter. People do it every day and often don’t even notice. But there is something Gul does not yet understand. She will. Secularism is empty and dangerous. Plenty of young women have come to various forms of harm from wearing a bikini. I’m not speaking about rape, though that does happen. I’m talking about Gov. Cuomo and everything his behavior represents. Eventually, secular culture will deal with its sexism and indeed is in the process of doing so right now. The emptiness is something else entirely. Islam is not just rules, but a way of life—a story of the universe. What is the secular way of life? What is its story of the universe? So, Lale Gul, welcome to secularism. But I’m afraid you will find it is not all it’s cracked up to be.

Title: What Has Gone Wrong and What Can We Do About It?

Date: 2021-08-15T06:21:00.007-04:00

8/15/2021--In 2019, I published a book review of three books in the Tulsa Law Review. These books were all about the divisions in American public life. The name of the book review was, WHAT HAS GONE WRONG AND WHAT CAN WE DO ABOUT IT? Most of the Introduction follows.

Introduction: This Moment in American Politics

It is a mark of how bad things are in American public life that most people who read the title of this book review will immediately understand that it refers to the current state of politics in the United States.

Here is how Lawrence Lessig describes our condition in America, Compromised, one of the three books discussed in this review:

"There is not a single American awake to the world who is comfortable with the way things are. Every one of us has a sense if only a sense that with our nation, something is not quite right We've not been as divided as a people since the Civil War."

Now, ignore Lessig's smug reference to Americans "awake to the world." That is his partisanship showing, a matter I return to below. Lessig is saying that all or most Americans know that something is wrong. Perhaps that by itself is not so shocking. The reader probably feels that way, too. I know I do.

But why are we so sure that anything is wrong? The unemployment rate is hovering around 4%. The economy is growing. Our military is still engaged in the Middle East, but at low levels. Racism is declining, as evidenced by the effectiveness of the Black Lives Matter movement in bringing attention to police wrongdoing and the historically low black unemployment rate. The #MeToo movement has exposed various forms of sexual oppression and harassment in the workplace. Nothing is objectively wrong in America right now.

Yet, despite all that, Lessig is obviously correct that Americans are divided--more than at any time since the Civil War.

Think about that. At the time of the Civil War, Americans were divided over slavery. A moral demand for freedom was imposing itself, threatening the fundamental social, economic and political arrangements of nearly half the country. Americans would go to war against each other over that demand for freedom, resulting in over 200,000 combat deaths.

Compared to slavery, what are Americans divided over today? Free trade? Wages have stagnated, but for most people are not actually falling. People are economically stressed, but how could that make us more divided than we were during the Depression?

White resentment over the loss of privilege is certainly a part of this story of division. But, Pennsylvania was won by President Donald Trump when Erie County, which President Barak Obama in 2012 had won by sixteen percentage points, went Republican. The story of how that happened cannot be simple racism.

Some people would say that abortion is a moral issue equivalent to slavery, but surely that view is a minority one. In one survey, only 45% of registered voters said that abortion was "very important" to their votes in the 2016 Presidential election.

And it is not really the case that Americans are divided over President Trump. It would be more accurate to say that the deep divisions in America allowed him to become President in the first place. We must remember that as early as 1993, not a single Republican in Congress voted for President Bill Clinton's first budget. American divisions were becoming set as early as twenty-five years ago.

In the Jewish tradition, the rabbis taught that Jerusalem fell to the Romans because of "baseless hatred." The defenders of the city were so divided that they could not concentrate on its defense.

Surely that description--baseless hatred--is the most accurate description of America today. We hate and mistrust each other and we seize on issues not so much because we disagree, but in order to express that very mistrust and hatred.

But why do we hate each other? And what can be done about it? That is the question books like these seek to answer.

In a recent book review, Daniel Drezner refers to the "21 st-century cottage industry of books devoted to how things went off course." The bar for adding to this genre, Drezner says, should be high. The three books reviewed here meet that bar. Each book has an important story to tell concerning what went wrong and how America might go forward in a better direction.

Nevertheless, in the end, there is something elusive about America's current moment that none of these books, nor indeed any of the other books in this genre, can quite touch. As I suggest at the end of this review, in each of these three books there is a hint of a spiritual crisis--a crisis in American secularism and American religion--that they do not address, but which eventually will have to be confronted if America is ever to heal.

The title of the review was a play on the title of one of the books under review: *Democracy in America? What Has Gone Wrong and What Can We Do About It?*, by Benjamin Page and Martin Gilens. (The third book, in some ways the most important, was *How Democracies Die*, by Steven Levitsky and Daniel Ziblatt.)

As the reader can see from the Introduction, I thought the three books had ultimately failed in their essential purpose—explaining why American public life is broken and giving us a path back to health.

I thought I knew then what was wrong, and it had to do with the Death of God and what that absence meant for Americans' understanding of the universe we live in. America needed a new, non-God-centered, account of the meaning of life.

Things are not much better now, two years later. Trump is out, which means the tone of American public life is improved. But in terms of division, a virus variant is raging because millions of Americans refuse to take a life-saving vaccine, and most government leaders refuse to require vaccination, on account of politics. That's pretty crazy.

In my new book, *The Universe Is On our Side: Restoring Faith in American Public Life*, I believe I have succeeded in diagnosing what went wrong in America and what we can do about it. The book will be published in October by Oxford University Press.

Only you can decide if I am right.

Title: Defend Mo Brooks; Don't Prosecute Donald Trump--this week's column in the Pa Capital-Star

Date: 2021-08-20T06:51:00.001-04:00

8/20/2021--Read the column here.

Title: The steal in the National Popular Vote Interstate Compact

Date: 2021-09-02T07:38:00.002-04:00

9/2/2021--This week's column in the Pennsylvania Capital-Star. It was not clear until 2020 just how bad this particular attempt to deal with the Electoral College would be.

Title: Secular Repentence

Date: 2021-09-10T07:49:00.001-04:00

9/10/2021--It came to me today, and I cannot further develop it right now, that in our efforts to build secular civilization--our great work, as Tom Berry might say--we have to have religious categories. One such category is prayer. Another, especially obvious during the Jewish Days of Awe, is repentance. I never hear anything about that from secular sources. But it is as necessary as tuning an instrument.

Title: Twenty Years Later, 9/11 is finally over

Date: 2021-09-11T07:18:00.001-04:00

9/11/2021--With the departure from Afghanistan, 9/11 has finally ended. During these twenty years we have lost a great deal. America is divided and diminished. But the immediate crisis of radical Islamic terrorism is diminished as well. Attacks continue, but, as David Brooks has written, that path is not the future. And that is clear to most. What is the future for Islam? What is has always been--a growing secularism. Growing unbelief. The example of the Taliban just brings that future closer.

Title: Forgiveness

Date: 2021-09-16T06:53:00.001-04:00

9/16/2021--On this day of Yom Kippur, the Day of Atonement, we secularists should ask, how do we find forgiveness? Yes, we can ask the person we have wronged, and in the Jewish tradition, one must do that. But, the tradition does not expect this always to be successful. One need only ask forgiveness a specified number of times--any more than that is considered an act of violence. And even when the wronged person forgives, that is not perfect forgiveness. We still know and they still know. And anyway, what secularist do you know who even thinks about how he or she wronged someone. No, secularism has a long, long way to go before we can have a flourishing secular civilization. Psychiatry is not a substitute for introspection. And that introspection is going to have to be really searching. When I practiced Judaism, I used to feel on Yom Kippur that the whole sin thing was overdone. (Except on rare occasions when my failures in personal relationships were too obvious to ignore). Now I think that we do violence all the time to everyone around us. But we mostly keep it hidden. We don't love properly. We are envious. We are vain. This I think is to be human. This most generalized falling short of living rightly is what we most need forgiveness for. Only religion offers that kind of forgiveness so that we really can start over tomorrow. How will secular life deal with this?

Title: Two Recent Columns--the Texas Anti-Abortion statute and Justice Wecht and the Death of God

Date: 2021-09-20T07:14:00.001-04:00

9/20/2021--Last week was obviously too busy. I failed to list here two columns that came out. One was on Sunday, 9/12, in the Pittsburgh Post-Gazette, I am Resigning from the Pro-Life Movement, about the Texas anti-abortion law. I have been trying to get the DFLA, of which I am a member, to take a stand on the Texas law. Other elements in the pro-life movement are similarly upset with the Texas law and the willingness of the pro-life movement to embrace the Texas law--see AP story here. The other column was in the Capital-Star, where I usually write, about a recent Pennsylvania Supreme Court opinion by Justice David Wecht that expressly set forth the Death of God as an aspect of public life. You don't usually get such clarity on issues like these. But it does demonstrate the emptiness of law. A similar dispiriting story appeared in Harper's, written by Barrett Swanson, about influencer houses, where young people go to try to make it in the industry--so of do it yourself celebrity over nothing. Read it if you want to understand suicide among young people and the emptiness of University.

Title: The Pennsylvania Supreme Court Race--I don't trust the Democrats and I am afraid of the Republicans

Date: 2021-09-28T07:36:00.000-04:00

9/28/2021--Both parties have shown themselves irresponsible and partisan. How will I vote in the November Supreme Court race in Pennsylvania? This week's column in the Pennsylvania Capital-Star.

Title: A Response to My Column Criticizing the National Vote Compact--What Ledewitz Missed

Date: 2021-10-03T06:47:00.000-04:00

10/3/2021--Last week, the Pennsylvania Capital-Star published a response to my column criticizing the National Vote Compact, from Brock Haussamen, a professor emeritus retired from Raritan Valley Community College in Branchburg, N.J., and a volunteer and for the National Popular Vote. Responses like this are great and I understand the Capital-Star may facilitate more reader reaction. As long as no one identifies any errors in my work, I am content to let both stand and invite readers to read both. In this case, Haussamen thinks it is OK for a State Legislature to make this decision without direct decision by the people of a state. I know this would be disaster if it ever came about. For me it is about the same as what Republican dominated state legislatures are doing now with regard to future voting controversies.

Title: Tune in to the Grimes Lecture I Delivered Yesterday at Bethany College

Date: 2021-10-08T03:21:00.001-04:00

10/8/2021--The subject was the potential of the crisis in the liberal arts and public life to spark renewal in America. Watch the lecture [here](#).

Title: The Case for Joe Biden

Date: 2021-10-13T07:21:00.001-04:00

10/13/2021--This week's column in the Pennsylvania
Capital-Star.

Title: The Migration of New Content to bruceledewitz.com

Date: 2021-11-01T06:05:00.002-04:00

11/12021--The process of creating an author website for the release of *The Universe Is on Our Side: Restoring Faith in American Public Life* is almost finished. Readers of *Hallowed Secularism* will find the continuation of the *Hallowed Secularism* blog there as well. The material on this website will continue to be found here as an archive.

