

Note: Please see the December 2006 Newsletter for additions to the bibliography contained in this newsletter. As that newsletter indicates, the bibliography in this newsletter also included an error. The citations for articles by Professors Frank S. Ravitch and Stephen M. Feldman somehow were combined into a single citation to a Wyoming Lawyer piece supposedly authored by Professor Ravitch. Here are the correct citations:

Stephen M. Feldman, *The Rehnquist Court and Religion*, 28 WYO. LAW. 30 (2005).

Frank S. Ravitch, *Religious Objects as Legal Subjects*, 40 WAKE FOREST L. REV. 1011 (2005).

## **AALS Section on Law and Religion June 2006 Newsletter**

Here at last is your section newsletter. It includes the traditional Law and Religion Section Newsletter elements: a listing of the section officers, a description (in this case after the fact) of the section program at the 2006 AALS Annual Meeting, and a bibliography of books and articles on law and religion published during calendar year 2005. This year we have added a new element: a listing of relevant blogs. Because of the delay in getting this out, we also are able to include information about the section's program at the upcoming 2007 AALS Annual Meeting.

We apologize for any omissions which, given the number of articles and books published during 2005, and the difficulty of finding out about every relevant blog, are inevitable. Please let one of your co-chairs know about any omission, and we will ask that the item be included in the next newsletter.

This newsletter is being sent by way of the new section e-mail list. Postage and copying costs eat up too much of the section's limited budget for us to continue to distribute a hard-copy newsletter, and the AALS Executive Committee is urging the sections to go to all electronic distribution of newsletters.

As the initial message to the list explained, the list is an "announcement only" list. Only a few of the section officers have the ability to post to it, and we will use it very sparingly, no more than four or five times a year, so that your e-mail inbox will not be cluttered with messages. Those who wish to engage in discussion on a listserv may wish to subscribe to the religionlaw list moderated by Eugene Volokh (of UCLA Law School).

### **Section Officers & Other Executive Committee Members**

Lisa Shaw Roy, University of Mississippi School of Law  
Section Co-Chair

Mark S. Scarberry, Pepperdine University School of Law  
Section Co-Chair

Richard W. Garnett, Notre Dame Law School  
Chair Elect and Secretary

Brett G. Scharffs, Brigham Young University, J. Reuben Clark Law School  
Executive Committee Member (and immediate past Section Chair)

Marie A. Failing, Hamline University School of Law  
Executive Committee Member (and Chair of the Section Nominating Committee)

Mark C. Modak-Truran, Mississippi College School of Law  
Executive Committee Member (and Chair of the Section Program Committee for the 2007 AALS Annual Meeting)

Eric R. Claeys, Saint Louis University School of Law  
Executive Committee Member

Davison M. Douglas, College of William and Mary, Marshall-Wythe School of Law  
Executive Committee Member

## **Section Programs at January 2006 AALS Annual Meeting**

The section put on two programs and cosponsored a third at the 2006 AALS Annual Meeting. Your section co-chairs and section executive committee wish to express their appreciation to chair-elect Richard W. Garnett, who served as program chair and did an excellent job putting together two great programs. Podcasts of the sessions are available at <http://www2.cali.org/index.php?fuseaction=static.aals2006>.

On Friday, January 6, the Section presented “The (Re)Turn to History in Religion Clause Law and Scholarship.” Lee J. Strang (Ave Maria) moderated a panel comprising Noah R. Feldman (NYU), Steven K. Green (Willamette), Marci A. Hamilton (Cardozo), Douglas Laycock (Texas), and Steven Douglas Smith (San Diego). The program will be published in the *Notre Dame Law Review*.

On Saturday, January 7, the Section presented “Religion, Division, and the Constitution.” Richard W. Garnett (Notre Dame) moderated a panel comprising David Campbell (Dept. of Poli. Sci., Notre Dame), Stephen M. Feldman (Wyoming), Frederick Mark Gedicks (BYU), and Paul Horwitz (Southwestern). The program will be published in the *William & Mary Bill of Rights Journal*.

The Section also lent its name as cosponsor to a fine Wednesday morning program put on by the Professional Responsibility Section, entitled “Professional Responsibility and the Religious Traditions.”

## **Section Program at Upcoming January 2007 AALS Annual Meeting**

The program, to be held Wednesday, January 3, 2007, from 2:00-5:00 p.m., will be entitled “Religion, Religious Pluralism, and the Rule of Law.” Here is a description of the program, provided by the chair of the program committee, Prof. Mark C. Modak-Truran:

Popular debate about the relationship between law and religion appears to be dominated by two camps – religionists and secularists. Religionists maintain that law ultimately requires a religious foundation which some countries have explicitly embraced in their constitutions and substantive legal norms. In the United States, they urge that government officials recognize this religious foundation by posting the Ten Commandments, displaying crèches, keeping “under God” in the pledge of allegiance, citing scripture in judicial opinions, and allowing prayer and the teaching of intelligent design in public schools. Conversely, secularists embrace the opposite claim that law should have a non-religious foundation. Religion is usually perceived as a threat rather than a source of social solidarity. In France, for example, the doctrine of *laïcité* requires secular solidarity to take priority over religious freedom by prohibiting children from wearing headscarves or religious symbols in public schools. Although there are positions between these extremes, religionists and secularists dominate the current debate without demonstrating much potential for moving the debate forward.

Perhaps their differences rest on more fundamental disagreements regarding their conceptions of religion, religious pluralism, and the nature and rule of law. What are these presuppositions and where do they come from? Are the presuppositions of religionists and secularists reasonable or justifiable? Are there other possible positions based on different understandings of religion, religious pluralism, and the rule of law? How do conceptions of religion, religious pluralism, and law shape our thinking about the proper role of religion in a pluralistic democratic society?

Panelists will use various theoretical and methodological perspectives to explore these questions. Some panelists will draw on resources within the law (e.g., U.S. Supreme Court

jurisprudence, international and foreign law) and within U.S. history to address these questions. Others will draw on resources outside the law. For instance, in the United States, aspects of the Christian tradition may explain the current state of affairs or may support a different trajectory. Alternatively, other religious traditions like Buddhism and Islam may lead to different understandings of religion and its relationship to law and human rights. Furthermore, the unique nature of religion may make it problematic to protect religious liberty directly by singling out religious activity for special treatment. Finally, it may be that the nature of law, religion, and religious pluralism needs to be rethought before we can properly consider the relationship between law and religion.

Two non-law professor speakers have accepted invitations to speak: Robin W. Lovin (Cary M. Maguire University Professor of Ethics, Southern Methodist University) and Michael Novak (George Frederick Jewett Scholar in Religion, Philosophy, and Public Policy, American Enterprise Institute for Public Policy Research). Law professors who will be speaking are:

- Larry Cata Backer, Professor of Law,  
The Pennsylvania State University, Dickinson School of Law;
- Rebecca R. French, Professor of Law,  
State University of New York at Buffalo School of Law;
- Scott C. Idleman, Professor of Law,  
Marquette University Law School;
- Elizabeth B. Mensch, SUNY Distinguished Teaching Professor,  
State University of New York at Buffalo School of Law;
- Steven D. Smith, Warren Distinguished Professor of Law,  
University of San Diego School of Law; and
- Winnifred Fallers Sullivan, Senior Fellow in the Martin Marty Center  
at the University of Chicago Divinity School, Visiting Scholar with the American  
Bar Foundation, and (as of Fall 2006) Associate Professor of Law, SUNY Buffalo  
School of Law.

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(Special thanks to recent University of Mississippi law graduates Lanesha Sims and Matt Tyrone, who performed much of the work on the bibliography. Dr. Daryl Fisher-Ogden also contributed to this bibliography as Research Librarian at Pepperdine University School of Law before becoming Academic Dean and Professor of Law at the Abraham Lincoln University School of Law.)

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## **Blogs**

(Special thanks to Professor Howard Friedman and his Religion Clause blog, noted below, for  
providing information about relevant blogs. He is not, however, responsible for any omissions or  
other errors in this list.)

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Blog from the Capitol: A Blog on Religious Liberty Issues and Separation of Church and State, <http://www.bjconline.org/cgi-bin/>.

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