

EDITOR'S PREFACE

This general issue of the Journal vividly illustrates the range of inquiry that demarks the field of law and religion, and the diversity in inquiry and teaching with which the Journal is blessed.

In the general articles section of the issue, Daniel Westberg clarifies the writing of St. Thomas Aquinas on the relationship between natural law and positive law, applying these insights to legislation on just wages, capital punishment and private property. Arnold Enker offers closely argued, illuminating insights into the "mistake of law" defense in Jewish criminal law and its religious understanding of "mens rea." David Orgon Coolidge serves up a "fantasy opinion" about the constitutional problems that might be occasioned by an explicitly religious political party that seeks matching federal election funds.

In the area of political and moral theory, Robert Araujo's comparison of the arguments of Roberto Unger and Gustavo Gutiérrez suggest a path for intellectual work on parallels in contemporary legal and theological critical scholarship. John Howard Yoder offers an insightful typology of "just war" arguments, which helps both to situate numerous writers within the field and to expose the stumbling blocks to peace which can be posed by such theories.

In this issue, we are pleased to publish a festschrift in honor of Judge John T. Noonan, Jr. in recognition of his important contributions to law and religion, which take their places with the numerous other ways in which he has influenced the church, the state, and society throughout his lifetime. The Journal will also honor Judge Noonan's work in fall, 1996, when he receives the fourth annual Journal of Law and Religion Lifetime Achievement award for his work in law and religion.

Bernard J. Cassidy, who was instrumental in collecting and presenting these works to us for publication, describes Judge Noonan's contributions, particularly those as a "historian of moral ideas," and introduces the articles in the festschrift. Kevin Starr, in his biographical essay, explains the many "hats" Judge Noonan has worn in public life during his lifetime; and Monroe Freedman presents Judge Noonan as an exemplar of ethical conduct. M. Cathleen Kaveny explores the themes of love and power, as they are illuminated in Judge Noonan's work on contraception, divorce,

bribery, religious liberty, and other areas at the intersection of religion and public policy.

Other papers in the festschrift represent the wide range of disciplines touched by Judge Noonan's work. Among those dealing with canon law, Bernard Häring compares Roman Catholic with other Christian positions on the response of the Church to contraception and to divorced persons who wish to remarry. Richard Helmholz completes a twenty-five-year-old discussion with then-Professor Noonan on 12th century law of excommunication, and Stephan Kuttner explores the mystery of Rolandus of Bologna and his purported "Stroma." David Daube also plays with language, exploring the historical meaning of "polytheism."

Theological insights on law and public policy are provided by Robert Rodes, who identifies didactic and instrumental purposes, social and personal values of the law from a Christian perspective. John S. Dunne spins reflections on the recognition of the presence of God and "love's direction." Judge Noonan's historical bent is represented in Andrew Kaufman's biographical sketch of Albert Cardozo; and his interest in public policy by Knut Wolfgang Nörr's essay on the legal concept of an economic constitution.

Robert Destro answers Judge Noonan's question about the responsible exercise of government power offering a structural analysis of the Constitution's religious liberty guarantees. His work is a good backdrop for the book review series we present by David Dow, Mary Läuchli and Emily Fowler Hartigan on Stephen Carter's *The Culture of Disbelief*. Finally, for religious and legal practitioners, a book review of Bullis and Mazur's *Legal Issues and Religious Counseling*.

We share the loss of an Advisory Committee member and friend, Alan Freeman, who died this year; and send our condolences to Betty Mensch and his family and friends. We hope some of you will consider contributing to a symposium in his honor, to be published in late 1996.

Marie A. Failing, Editor