

Book Review

***Law's Religion: Religious Difference and the Claims of Constitutionalism*, by Benjamin L. Berger¹**

HOWARD KISLOWICZ²

BENJAMIN BERGER'S *LAW'S RELIGION: Religious Difference and the Claims of Constitutionalism* is a remarkable work of sharp analysis and deft prose. For readers within legal academia and practice, the book sets a challenging task: to examine from the outside a structure in which they are sitting. ~~Paradoxically~~, the central insight of Berger's book is that Canadian constitutional law is a culture, a system of symbols that structure and generate meaning, deeply influenced by a liberal tradition and a particular history. Berger reminds us that even those who agree with this basic proposition often find themselves speaking of law as if it were above or without culture. Through examples drawn principally from Canadian court decisions, Berger shows persuasively that when law encounters religion, we witness a meeting of cultures, each with its own symbolic, aesthetic, and normative commitments. The participants in this cross-cultural encounter, however, are not equal in power. The law has a coercive capacity unavailable to most religions, which sometimes makes the encounter colonial or conversionary in character. Berger argues that this is not a problem that can be cured; law cannot help but be a culture, and its impulse to rule is deeply ingrained. Instead, Berger provocatively suggests that judges should cultivate their indifference to

1. (Toronto: University of Toronto Press, 2015) [Berger].

2. Assistant Professor, Faculty of Law, University of New Brunswick. Thanks go to Tim Champion for his research assistance and to Kathryn Chan for helpful comments on a previous draft. Special thanks, as always, to Dr. Naomi Lurie and Gabriel Kislowicz.

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