
THAT GODLESS COURT? SUPREME COURT DECISIONS ON CHURCH-STATE RELATIONSHIPS (SECOND ED.)

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Reviewed by Gary Asher

The decisions of the Supreme Court concerning the relationship between church and state have been fueling public discussion over the past decade as numerous new cases have come before it. Opinions range from seeing the Court's rulings as an attack on religious views and practices to viewing them as the ultimate protection of religious freedom. In regard to these decisions, is the Supreme Court the savior of religious liberty or the godless advocate for a religion-free society? Is it promoting freedom of religion or freedom from religion? Such concerns are addressed in the second edition of the book, *That Godless Court? Supreme Court Decisions on Church-State Relationships*.

Why publish a second edition? Since the debut of the first edition in 1994, there have been 12 church-state cases ruled upon by the Supreme Court, and since, according to Flowers, "decisions of the Court have become considerably more complicated...there is an even greater need for a 'user-friendly' guide to this subject matter" (p. ix).

Flowers accomplishes this by presenting a clear and easy to understand account of the Supreme Court and issues surrounding the debate concerning the separation of church and state prevalent in today's society. Avoiding the overuse of technical and legal jargon, a description of the Court and its decisions is presented in a manner easily comprehensible by those unfamiliar with the nation's highest court.

Is the Supreme Court of the United States godly or godless? According to Flowers, for the Court to be a protector of religious freedoms, it must be neither. To illustrate this, the reader is taken through a history of the development of the principle of religious freedom in this country. Beginning with the charters of the original colonies through recent Court decisions, the evolu-

tion of what separation of church and state has come to mean is plainly developed.

What is not realized by many in modern society is that there is no mention of God or any religious tradition in the Constitution. As Flowers points out, "By not mentioning religion, the founders were not expressing animosity toward religion, but rather keeping the sacred matter of religion from the reach of government" (p. 16).

The reader is given a comprehensive and lucid explanation of what the Free Exercise and Establishment Clauses of the First Amendment mean in regard to the relationship between church and government. The relationship emphasized in this book is best illustrated in a quote by former Justice Hugo Black who said, "The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable" (p. 73).

What does this mean to America of the 21st century? Many argue that as a result, there is an attack on religious freedom in this country and that the Supreme Court is leading that attack based on recent decisions. In recent years, the Court has handed down at least one church-state decision each year, sometimes more. In this book the reader is exposed to major issues that have come to the Court throughout American history and the procedure the Court used in rendering its decisions. As a result the reader is "better equipped to understand the decisions that may come down from the Court in the future" (p. 185).

According to Flowers the answer to the question "Is there an attack on religious freedom in this country" is a resounding "Yes." There is a serious attack against religious freedom, which is in severe danger. However, the attack is not as most would argue. Given the rise of the Christian right and the more sympathetic views of today's administration, the "Court has put religion in the greatest danger, the danger of being either corrupted by too close association with the state or destroyed by too much deference to the state" (p. 185). This position is argued quite extensively as Flowers presents the accommodationist tendencies of the Court in the last 20 years.

With this in mind, Catholic educators should take specific note of chapter 6 which deals with the Court's rulings concerning aid to church-related schools. Here are discussed aid that the Court has deemed permitted and prohibited, tuition tax credits, aid to the physically disabled, aid to church-related universities, and vouchers. A lengthy discussion is given to the *Zelman v. Simmons-Harris* decision, which for the first time approved the delivery of substantial amounts of money to religious schools. This was a monumental decision considering the Court's previous decisions concerning church-sponsored schools. Up until this decision in 2002, the Court had been relatively unbending when considering aid to parochial elementary and secondary

schools while approving those at the university level. In light of this decision, those who lead our nation's Catholic schools and lobby for government aid should consider the argument that "government accommodation and promotion of religion is the enemy of a vibrant, creative church" (p. 183). If, through aid to church-related schools, the government is allowed into religious institutions, is it not being given the opportunity to meddle in matters of religion? Flowers states that separation, not accommodation, is better because it allows religion to develop independently without interference.

That Godless Court? has been written for those who fear the loss of religious freedoms as well as those who need an easy-to-read depiction of the Supreme Court. Through these illustrations of the decision-making process, Flowers supports the view that separation, not accommodation, is the best relationship between church and state. It is argued that the founders showed the ultimate respect for religion in this matter by advocating government as neither the enemy nor servant of the state. The Supreme Court has the responsibility to maintain that relationship and the best attitude the Court can have toward religion is to keep its distance.

Does this make the Court godless? In the words of Justice Black, "The separation of church and state stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate" (p. 186).

Decisions of the Supreme Court concerning church-state issues affect all Americans and have direct and indirect effects on church-sponsored schools. In this reviewer's opinion, *That Godless Court?* should be read by those involved in Catholic education, especially those who are undecided as to the extent there should be government aid to religious schools. By providing a well-supported perspective on the separation of church and state, this book can be a resource for determining a personal stance on the government's place in the Catholic school.

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