

Flowers, Ronald. *That Godless Court: Supreme Court Decisions on Church-State Relationships*. Louisville, Kentucky: Westminster John Knox Press, 2005.

As a reaction to the landmark decisions of 1962 (*Engel v. Vitale*) and 1963 (*Abington v. Schempp*) which banned school-sponsored prayer and bible reading in the public schools, the Supreme Court was frequently called “godless” by those who opposed those decisions. Is that a fair representation of the Court? Ronald Flowers’ *That Godless Court?* attempts to shed some light on that question and many more. Flowers, a retired professor of religion and a self-described “strict separationist,” has written a valuable introduction to Supreme Court decisions on church-state relationships. Relying upon the research of church-state experts such as Derek Davis and Leonard Levy, Flowers has pieced together a comprehensive work, with each chapter carefully divided thematically, that references over 100 federal decisions and covers a panoply of topics.

Flowers begins with a short chapter that defines basic legal terms, concepts and describes how exactly a case reaches the High Court. This chapter is invaluable and necessary as *That Godless Court?* was designed “to help clergy and laypeople to understand church-state issues and the Supreme Court’s role in defining what is permissible and what is not (xi).” Next, Flowers offers an overview of the history of church-state relationships beginning in 1555 with the Peace of Augsburg. He succinctly summarizes the quest for religious liberty in the New World with special attention given to Thomas Jefferson and James Madison’s push for a separation of church and state in Virginia.

In the third chapter, Flowers moves to an historical overview of the Supreme Court’s attempt to define religious freedom. Focusing on decisions prior to 1963 relating to the Free Exercise Clause, Flowers tackles the historic Mormon controversy over polygamy (*Reynolds v. United States*) and the Jehovah’s Witnesses cases of the 1930s and 1940s (*Cantwell v. Connecticut*, *Prince v. Massachusetts*). Throughout this chapter and all other chapters, Flowers presents the Court’s opinions in a clear manner. Readers familiar with other surveys of church and state will find his concise yet comprehensive style to be a breath of fresh air.

Flowers provides a survey of Free Exercise Clause jurisprudence from 1963 to 2004 in his fourth chapter. After a brief examination of the “Sherbert Test” and other unemployment compensation cases, Flowers abruptly switches gears. He devotes nearly a dozen pages to the decision in *Employment Division of Oregon v. Smith* which marked a major turning point in the Supreme Court’s treatment of free exercise issues. *Smith* discontinued the “Sherbert Test” much to Flowers’ dismay. In fact, it is here that Flowers reserves his harshest criticism of the Court by declaring that the effect of *Smith* was “essentially to declare the Free Exercise Clause null and void and to restrict religious liberty in the United States (p. 43).”

The second half of Flowers’ book covers specific Supreme Court decisions dealing with conscientious objectors (ch. 5), government aid to parochial schools (ch. 6), and religion in public schools (ch. 7). In each of these chapters, Flowers provides an incredibly useful overview of relevant case law. With so much confusion over the proper role of religion in the public school system, all principals and teachers would be well served to read and study Flowers’ survey of this important topic. His discussion of church-related schools coherently explains what type of public aid and services have been

deemed constitutional by the Supreme Court. Unfortunately, Flowers' coverage of various voucher schemes and related rulings is rather skimpy. Nonetheless, even recent church-state developments such as Michael Newdow's question of the constitutionality of the phrase "under God from the Pledge of Allegiance are given quite a bit of attention.

In his ninth and final chapter, Flowers lays down the gauntlet and reveals his separationist perspective. He chides the "Christian" Right for attempting to "remake the country in its own image" (156) and argues that the accommodationist approach of the current Supreme Court has put religious freedom in great peril. Flowers desires a return to the "Sherbert Test" also known as the "compelling state interest test" which he wisely sees as the gold standard in Free Exercise jurisprudence. Finally, Flowers concludes with a strong defense of his separationist perspective. He writes: "Strict separation is not hostile to religion; strict separation is necessary for religious freedom. Separation is better for the government and better for religion (184)."

Ronald Flowers' *That Godless Court?* is a fine introduction to the church-state decisions of our High Court. It is well-written and deserves a spot on the bookshelf of both the scholar and the curious layperson. *That Godless Court?* is a much needed reference tool with which to interpret rulings from such a complex and conflicting area of law. However, *That Godless Court?* will undoubtedly become quickly outdated due to the addition of two "strict constructionists" to the Supreme Court. Hopefully at that point, Flowers will come out of retirement to publish a third edition of this invaluable work.

Review by Aaron Weaver