

are indeed unsurpassable. The fact that there are serious tensions, however, often comes as a revelation to many students of political and legal philosophy, including many orthodox Christians.

A discerning reader of these essays should leave with the impression that the late-twentieth century's natural law revival has created the basis for a genuinely ecumenical movement of thinkers, capable of serving as a corrective to the dualistic, secularist vision of man presently dominating Western philosophical, political, and legal discourse. By making this material available to wider audiences, the editors have significantly contributed to what one hopes will be the eventual realization of this noble end.

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The Supreme Court and Religion in American Life
Vol. I: The Odyssey of the Religion Clauses (218 pages)
Vol. II: From “Higher Law” to “Sectarian Scruples”
(261 pages)

James Hitchcock

Princeton, New Jersey: Princeton University Press, 2004

The Supreme Court began a significant shift during the 1940s, argues James Hitchcock, by increasing the number of First Amendment cases it reviewed and by altering its understanding of the relationship between church and state to an Enlightenment view of religion and politics. Hitchcock's two-volume contribution to church-state scholarship will prove to be a cornerstone for accommodationist theory and a thorn in the flesh for separationist scholars. The St. Louis University history professor's work is the latest in a trend toward accommodationist scholarship, most notably evident in Philip Hamburger, *Separation of Church and State* (Harvard University Press, 2002), and Daniel Dreisbach, *Thomas Jefferson and the Wall of Separation Between Church and State* (New York University Press, 2003).

The first volume provides the reader with an analysis of the most extensive set of religion cases reviewed by the Supreme Court to date, including cases that have been overlooked by other works on church-state relations. The religion clauses, Hitchcock demonstrates, played a minimal role in the early court, yet the court was still concerned with protecting religious liberties by using other factors, such as property rights and contract law. For example, *Dartmouth College v. New Hampshire* (1819), a case involving a religious institution's legal autonomy, was decided not on the First Amendment but on the basis of contract law. Religion cases did increase, due to litigation brought by Mormons and Jehovah's Witnesses, yet the most significant period of transition and expansion in the court, according to Hitchcock, was the 1940s. He chronicles the cases during this period, demonstrating a simultaneous and paradoxical expansion of religious freedom based on the free exercise clause (e.g., conscientious objection cases)

and a restriction of liberty based on the establishment clause (e.g., public education cases). This almost encyclopedic volume is a wonderful, stand-alone reference work that lists all the important cases with the exception of the most recent *Locke v. Davey* (2004) case. Although the author's thesis drives the layout and analysis and is periodically visible, the subsequent volume more clearly provides the purpose and reason for his interpretation of the transition in the 1940s.

This second volume demonstrates that the founding generation, including its political leaders and court judges, believed religion to be essential to providing a healthy society and hence deserved accommodation in the public square. Hitchcock believes this reading of the founding was authoritative from the eighteenth to the early twentieth century. However, in *Everson v. Board of Education* (1947), Justice Hugo Black offered an initial separationist interpretation of the Founders' view of religion and government—quoting Jefferson's "wall of separation" from his letter to the Danbury Baptists. This separation interpretation of the Founders, according to Hitchcock, offered justification for a radical departure in the court's understanding of religion, politics, and society—a new reliance upon an Enlightenment view of religion as divisive, private, and irrational—that led to two "disestablishments": (1) during the 1940s, the abandonment in law of the moral authority of Christianity; and (2) after *Roe v. Wade* (1973), the separation of law from traditional moral principles.

The most interesting portion of the volume is Hitchcock's examination of the religious identification of the Supreme Court justices. He studies the religious affiliations and spiritual journeys of over sixty justices who were overwhelmingly either Unitarian or Episcopalian. The largest Protestant denomination, Southern Baptists, have never had a single active member on the court. The only two ever identified with the Baptist faith, Hugo Black and Wiley Rutledge, had abandoned the denominations of their youth. Hitchcock uses this overrepresentation of a liberal religious affiliation as further support for his thesis, namely the court's acceptance of a view of religion as irrational and therefore harmful to society.

Hitchcock argues that, at the beginning of the twenty-first century, this modernist understanding of religion and separationism is beginning to wane. Although this perception of the direction of the current court is substantiated, it is by no means concrete, hence his choice for the title of chapter 5, "A Fragile Wall." The current state of the Supreme Court's stand on issues of religion, politics, and society is indeed fragile. With the questionable return of Chief Justice William Rehnquist, a noted critic of separationism, the potential appointment of a number of justices in upcoming years will be critical to the future decisions of religion cases. Furthermore, a current in-house debate over which principles or tests (e.g. Lemon test, endorsement test) should be used in deciding First Amendment cases underlines the delicacy of the issue.

Hitchcock's conclusion rightly places the blame on the court's comprehensive liberalism. A view of human beings through the lens of hyper-individualism and autonomy will be hard to reconcile with an understanding of the human being as, as one scholar

puts it, the “encumbered self.” Religionists are not simply free-will individuals bound to choose their religious convictions as they choose between McDonalds or Burger King. Rather, people of faith are fundamentally identified by their faith convictions and communities. These commitments are seemingly foreign to the court that Hitchcock describes.

Will religious institutions, as a community of faith, be able to withstand employment discrimination lawsuits posed by individuals? Will parents, as the children’s most fundamental community, continue to be able to pass on religious values, through private education and homeschooling, even if deemed divisive and irrational by society at large? Furthermore, a liberal worldview that views true knowledge as rational and leaves issues of faith to personal speculations necessarily gives religious believers a disadvantage in the area of church-state relations. As Hitchcock accurately explains, the court, by defining religion as irrational and subjective belief may provide the benefits of the free exercise clause to political and philosophic viewpoints, including secularism. On the other hand, the establishment clause restricts the actions of traditional religions such as Christianity, while allowing other “faiths” to escape. This disadvantage plays out not only in traditional church-state issues such as funding (e.g., faith-based initiatives) but also in the rapidly escalating church-state discussion surrounding moral issues. For example, religious arguments made in the public square on issues such as abortion, same-sex marriage, and euthanasia are deemed less effective and potentially in violation of the establishment clause in contrast to secular arguments that are based on science and facts (i.e., truth).

Hitchcock’s work offers timely admonition to those who are concerned about religion, politics, and society. As church and state increasingly intersect, his proposal offers a compelling way forward: to see separation as governing the relationship between religion and government and accommodation as defining the relationship between religion and culture.

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Business for the Glory of God: The Bible’s Teaching on the Moral Goodness of Business

Wayne Grudem

Wheaton, Illinois: Crossway Books, 2003 (96 pages)

Wayne Grudem has done much to promote the concept of business as a calling, as labor that provides a context for human flourishing. Grudem writes out of a conviction that people who work in the business world are often made to feel guilty because few people think “instinctively of business as morally good in itself” (11). The purpose of this book is to demonstrate that many aspects of business activity are morally good in themselves and that these good activities bring glory to God.