

## Church-state borders

by [John Buchanan](#) in the [August 6, 2014](#) issue



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In a rigorous college course on constitutional law I studied and discussed landmark decisions handed down by the U.S. Supreme Court. I learned that American democracy is a work in progress and that the nature of the nation and culture at any given moment is in part a product of the thinking of the nine justices. The Supreme Court was created to provide a balance to the power and authority of Congress and the president, and in theory it transcends political partisanship.

The reality, however, is that the court reflects the politics of the moment, and in particular the opinions and convictions of the president who appointed the individual justices and of the legislators who confirmed their appointment. The Supreme Court is so important politically that FDR tried, unsuccessfully, to increase its size so that he could pack the court with justices amenable to his New Deal goals.

The current court is dominated by five Roman Catholic men who were appointed by Republican presidents. In a review of several new books on the Supreme Court, Jeff Shesol observes the rightward tilt of the current court in its conservative rulings on campaign finance, affirmative action, gun control, abortion, and religion in the public sphere (*New York Times*, July 2).

Two recent decisions on religion reflect that shift. The intent of the First Amendment to the Constitution, which guarantees and protects freedom of religion, is meant not only to guarantee the freedom to worship and practice religion as one chooses, but also to protect the government and the people from the imposition of anyone's

religion. We are to have no state-sponsored church here, no church officials dictating government policy. The amendment was so radical at the time that almost no one thought it would work. Conventional wisdom was that the government needed the blessing of the church and that the church needed government sponsorship and support. Nonetheless, over the years the amendment has generally worked well for both state and religion.

Yet the boundary between freedom from a coercive religion and the freedom to practice religion as one chooses has always been blurred and troublesome. Should there be prayer and Bible reading in public schools? Should religious symbols be displayed on public property? Should a corporation or a college be granted an exemption from obeying a law because of religious conviction?

The court recently decided that the Hobby Lobby store chain need not provide certain contraception methods to its employees despite the dictates of the Affordable Care Act because the corporation owner has strong religious convictions about abortion. Hobby Lobby appealed to the 1993 Religious Freedom Restoration Act, and the five conservative justices agreed.

In a related case, Wheaton College in Illinois was granted an exemption from even having to fill out forms requesting an exemption from following ACA rules for its employees.

I disagree with these decisions. The court appears to be not just letting religious people act out their beliefs, but letting them impose those beliefs on others who might not share them.