



**RETIRED MEN'S ASSOCIATION OF GREENWICH, Inc. (RMA)**  
**invites you to its meeting at**  
**First Presbyterian Church, Lafayette Place, Greenwich, CT.**



## **Nelson Tebbe**

**The Supreme Court Term in Constitutional Law:**  
**Correct Outcomes, Unconvincing Reasons?**  
**July 29, 2015**

The Supreme Court term that ended last month featured some momentous decisions. Perhaps most consequentially, the Court upheld the Affordable Care Act for the second time, in an important decision involving statutory interpretation. But the Court was active in constitutional law, too. In *Obergefell v. Hodges*, the Court required the states to include same-sex couples in civil marriage. And in *Walker v. Sons of Confederate Veterans*, the Court upheld Texas's ability to reject a specialty license plate bearing an image of the confederate flag.

These decisions are both notable for many reasons--they are landmark cases. But they share one less obvious, and more curious, feature. That is, even people who support the outcomes in both cases think that the dissents had stronger arguments. Justice Kennedy's opinion in the same-sex marriage case has found many supporters for the outcome, but few for his reasoning. Similarly, many liberals support the Walker case upholding the exclusion of the confederate flag, although most of them find Justice Alito's dissent more convincing.

How can this be? Why has the Court handed down two important "culture war" decisions that are seen to be unconvincing in their reasoning, even among those who support the outcomes? And why did the dissenters in the two cases not draw more sympathy for their bottom lines, if their reasons were so compelling? One possible answer is that neither side quite got the constitutional law right in either case. Our speaker will explore that possibility.

Nelson Tebbe teaches courses on constitutional law and the First Amendment at Brooklyn Law School and Cornell Law School. His scholarship addresses religious liberty and general constitutional law, both in the U.S. and abroad. He holds a B.A. from Brown University, a J.D. from Yale Law School, and a Ph.D. with distinction from the University of Chicago Divinity School. Before entering teaching, he clerked for Hon. John M. Walker Jr. of the U.S. Court of Appeals for the Second Circuit, worked for the American Civil Liberties Union and was an associate at Davis Polk and Wardwell. He was a Fulbright Scholar at the University of Cape Town in South Africa. Currently, he is writing a book, under contract with Harvard University Press, called *Religion & Equality: How To Think About Religious Freedom In An Egalitarian Age*.

RMA meetings are free and open to the public; no reservations are required. Please plan to arrive around 10:40AM for our social break (coffee and cake), followed by our speaker at 11:00M. Meetings are held at the First Presbyterian Church in Greenwich, with parking on-street or at public lot two houses north of the church on Lafayette Place. For additional information, contact: jim.fishbein1@verizon.net