

RESEARCH ARTICLE

# Free Church, Free State, Free Conscience: Baptist Ecclesiology and Church-State Attitudes in the Mid-Twentieth-Century United States

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## Abstract

This article explores the connection between the ecclesiology and the beliefs on church-state relations of Baptists in the mid-twentieth-century United States. The author analyzes white Baptists' reactions to the US Supreme Court rulings in *Everson v. Board of Education* (1947) and *McCullum v. Board of Education* (1948), both of which inaugurated the modern era of strict separationist Establishment Clause jurisprudence. The author also traces the development of Baptist beliefs on how the institutional church relates to individual salvation—beliefs that distinguished Baptists from both Catholics and most other Protestants—and statements from US Baptist leadership supporting church-state separation. The author demonstrates that Baptists' beliefs on the internal, individualistic, and non-sacramental nature of salvation induced them to see any government-sponsored religious activity as likely corrupting of a person's genuine choice of salvation. Furthermore, Baptists' origins as a persecuted minority in Europe and the United States reinforced their idea that government-sponsored religion would lead to the suppression of true Christianity. For both reasons, then, state-sponsored religion was not God's design. Beginning with *Everson* and *McCullum* and continuing with later cases through the 1960s, Baptist's strict separationism became the binding interpretation of the First Amendment's Establishment Clause through Justice Hugo Black, who authored both the *Everson* and *McCullum* majority opinions. Although no longer a Baptist when the rulings were issued, Black retained his Baptist influence on church-state issues and enshrined strict separationism into American case law for decades, leading to a Baptist triumph that many Baptists themselves would later regret and attempt to reverse.

**Keywords:** separation of church and state; Establishment Clause; Baptists; US Supreme Court; ecclesiology; strict separationism; Hugo Black

The morning of Tuesday, June 21, 2022, in Washington, DC, was warm and pleasant, with temperatures in the 70s, low humidity, and a mixture of clouds and sun.<sup>1</sup> From its recognizable neoclassical courthouse on First Street, the Supreme Court of the United States prepared to release the rulings on five cases as it neared the end of its yearly term.

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<sup>1</sup> "June 21, 2022 Weather History in Washington, D.C.," Weather Spark, accessed November 19, 2022, <https://weatherspark.com/h/d/20957/2022/6/21/Historical-Weather-on-Tuesday-June-21-2022-in-Washington-D.C.-United-States#Figures-Temperature>.



The court often saved its higher-profile cases for release in June, and this year was no exception. The US public was waiting to see how the court would rule in several cases on controversial topics including religious freedom, gun control, environmental protection, and above all, abortion. The public would continue to wait for days and into the following week for the court to issue the latter opinions, but at 10:00 a.m. that day, the decision in *Carson v. Makin* was announced. The case posed the question of whether the state of Maine had the right, under the Establishment Clause in the US Constitution's First Amendment, to exclude certain schools from its tuition reimbursement program. The program assisted parents in school districts where there was no local public secondary school by covering the cost for accredited private schools or public schools in other districts. However, the program excluded "sectarian" (religious) schools.<sup>2</sup> In his majority opinion, Chief Justice John Roberts wrote not only that the inclusion of religious schools in the reimbursement program would not violate the Establishment Clause, but also that the existing exclusion of religious schools did violate the First Amendment's Free Exercise Clause and, therefore, was unconstitutional.<sup>3</sup> The next day, Dr. Albert Mohler, president of the Southern Baptist Theological Seminary in Louisville, Kentucky, reacted to the ruling on his daily podcast as warmly and sunnily as the DC weather the day before, calling the decision "a big win here for religious liberty" and calling the idea that any nonreligious school could be truly nonsectarian and worldview-neutral "abject nonsense." In its previous attempts to maintain such neutrality, he argued, the court had actually "privileged secularism over religious belief."<sup>4</sup>

Seventy-five years earlier, on the morning of February 11, 1947, the Reverend Dr. Harold C. Phillips of the First Baptist Church of Cleveland, Ohio, felt the sub-freezing chill of the northern Ohio winter as he stepped outside and picked up his morning paper.<sup>5</sup> Upon reading the report of the Supreme Court's actions the previous day, an even deeper chill came over him. The court had announced their ruling in the landmark case, *Everson v. Board of Education*, which had posed the question of whether a New Jersey public school district's policy of reimbursing parents for the cost of transporting their children to both public and Catholic schools violated the Establishment Clause of the First Amendment.<sup>6</sup> Justice Hugo Black, writing for the majority, declared that the clause meant, at minimum, that neither a state nor the federal government could establish a state church; punish anyone for professing or refusing to profess a certain belief system or attend a certain church; or pass laws that "aid one religion, aid all religions, or prefer one religion over another."<sup>7</sup> In short, Justice Black concluded, "the First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach." Nevertheless, to the bewilderment of the dissenting justices, the majority ruled that "New Jersey has not breached it here." The court upheld the reimbursement policy, reasoning that the policy did nothing more than provide a general program to get all children "safely and

<sup>2</sup> *Carson v. Makin*, 142 S. Ct. 1987 (2022), 1993–94 (slip opinion at 1).

<sup>3</sup> *Carson*, 142 S. Ct. at 1997–98 (slip opinion at 2).

<sup>4</sup> R. Albert Mohler Jr., "Wednesday, June 22, 2022," June 22, 2022, *The Briefing*, produced by R. Albert Mohler Jr., podcast, at 7:04, <https://albertmohler.com/2022/06/22/briefing-6-22-22>.

<sup>5</sup> Harold Cooke Phillips, letter to Hugo Black, February 11, 1947, box 285, folder 4, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress, Washington, DC; "Our History," First Baptist Church of Greater Cleveland, accessed July 27, 2022, <https://www.firstbaptistcleveland.org/about-our-church/our-history/>; "Global Surface Summary of the Day—GSOD: Toledo WBAS, OH US," National Centers for Environmental Information, February 11, 1947, <https://www.ncei.noaa.gov/access/search/data-search/global-summary-of-the-day?dataTypes=MAX&dataTypes=MIN&dataTypes=TEMP&startDate=1947-02-11T00:00:00&endDate=1947-02-11T23:59:59&bbox=41.984,-83.694,41.212,-80.925>. Toledo was the closest town in northern Ohio to Cleveland that had weather records for that date.

<sup>6</sup> *Everson v. Board of Education*, 330 U.S. 1, 23 (1947).

<sup>7</sup> *Everson*, 330 U.S. at 15–16.

expeditiously to and from accredited schools” in a manner comparable to the city funding roadways or a police department for a similar purpose.<sup>8</sup>

Phillips was appalled—so much so that he typed a letter the same day to Justice Black. “I keep saying to myself,” he wrote, “Can it be possible that our highest court has now made it legal to support religious schools by public funds?” which in reality is precisely what the recent ruling amounts to.” He called the ruling both “the most dangerous and ominous” one that the court had made in his memory and “the camel’s nose in the tent.” Phillips predicted that the ruling would lead to full governmental support of parochial schools such that “our first amendment will be no more.”<sup>9</sup>

To modern Americans familiar with Baptist views similar to Mohler’s on church-state separation, the reaction of Phillips expressing support for an absolute separation of church and state may be quite surprising, especially when one realizes that it represented the majority reaction among Baptist leaders at the time.<sup>10</sup> Indeed, the Baptist embrace of a “wall between church and state” was a consistent response to the landmark Supreme Court decisions issued during the mid-twentieth century on the issue of church-state relations in education. From *Everson’s* (nonreligious) christening of the wall as a constitutional principle through the judicial duology of *Engel v. Vitale* (1962) and *Abington School District v. Schempp* (1963) that removed school-sponsored prayer and Bible reading from public schools, the majority of Baptist leaders—and seemingly, with the exceptions of *Engel* and *Schempp*, the majority of Baptists in general—consistently supported the expanding body of strict-separationist case law. The two earliest decisions of this time period were *Everson* and *McCullum v. Board of Education* (1948), which ruled that a public-school district’s “released time” program, wherein private educators would come into the schools and students would have the option of being released from regular instruction for a period of time in order to receive religious education, was a violation of the Establishment Clause.<sup>11</sup>

Baptists’ support for the Supreme Court’s enshrinement of strict separationism into Establishment Clause jurisprudence was not only a result of their doctrine on church-state separation, a connection many scholars have noted, it was also a direct and logical outgrowth of Baptist ecclesiology and soteriology, particularly the elements that distinguish Baptists from most other Christian traditions. Within Christianity, ecclesiology is the set of doctrines and beliefs regarding the proper structure and governance of the church and its relationship to both the individual Christian and the secular world. Soteriology is the set of doctrines regarding an individual’s salvation from sin and spiritual death. In focusing on these particular theological beliefs in my analysis, I highlight the impact on political theology of doctrines ostensibly unrelated to life beyond the walls of a church, the classrooms of a seminary, or the recesses of the heart. Baptist beliefs about how the church and church practices influenced a person’s individual salvation are evident from the statements of notable individuals from Baptist history, official denominational statements of belief, and the writings of pastors. These beliefs showed up in both the reaction letters the Supreme Court received and the majority opinions of *Everson* and *McCullum*, both of which were written by Black—a former Baptist.

<sup>8</sup> *Everson*, 330 U.S. at 18.

<sup>9</sup> Phillips, letter to Hugo Black.

<sup>10</sup> James E. Zucker, “Better a Catholic than a Communist: Reexamining *McCullum v. Board of Education* and *Zorach v. Clauson*,” *Virginia Law Review* 93, no. 8 (2007): 2069–17, at 2076–78; John C. Jeffries Jr. and James E. Ryan, “A Political History of the Establishment Clause,” *Michigan Law Review* 100, no. 2 (2001): 279–370, at 320. A survey of the opinions expressed in letters received by Justices Black and Robert Jackson from clergy confirm this assessment.

<sup>11</sup> *McCullum v. Board of Education*, 333 U.S. 203, 205, 212 (1948); *Engel v. Vitale*, 370 U.S. 421 (1962); *Abington School District v. Schempp*, 374 U.S. 203 (1963).

Previous discussions also address *Everson* and *McCullum*. For example, Joan DelFattore, Bruce J. Dierenfield, and Michael J. Davis analyze Baptist and other Protestant reactions to the cases in their works on the history of the religion-and-schools debate, but they largely leave out discussion of religious doctrines on ecclesiology and soteriology. DelFattore primarily describes the political and legal history surrounding debate and does not materially address the doctrinal issues behind the opinions of Americans on the legal developments.<sup>12</sup> Dierenfield discusses the split among Protestants in their reactions to the 1962 Supreme Court case *Engel v. Vitale* and gives a bit of analysis beyond mere observation on this point, but the reactions are not the focus of his work.<sup>13</sup> Davis analyzes the decisions as matters of social policy and constitutional interpretation, but he does not attempt to explain them via any form of religious doctrine other than discussing increasing religious diversity in the country and stating that *Engel* and *Schempp* helped to form the Religious Right.<sup>14</sup>

Other scholars, among them John C. Jeffries Jr., James E. Ryan, Steven K. Green, Philip Hamburger, and Warren A. Nord, describe the role of theology in informing the popular reactions to the rulings, but only briefly. Jeffries and Ryan give significant attention to the nature of Protestant opinion on the rulings and their long-standing opposition to Catholic influence in America's schools, but they focus primarily on the political and social reasons for their opposition.<sup>15</sup> Green analyzes the mid-century church-state cases as the high point of a strict church-state separation in Supreme Court jurisprudence, one that preceded a period in the late-twentieth century when the court began to blur the boundaries of separation.<sup>16</sup> In his works, he describes the reactions and legal activism of some Baptists and Baptist organizations surrounding the rulings, and he briefly overviews the theological and pragmatic origins of different Protestant denominations' beliefs in varying levels of church-state separation. However, his overview does not contain an extended discussion of Baptist ecclesiology or soteriology, nor does he analyze the unique nature of Baptist theological reasonings and conclusions on church-state issues as compared to those of Catholics and other Protestant traditions.<sup>17</sup> Hamburger gives the most in-depth analysis on the general issue of Protestants and church-state relations, discussing how Protestant fear of the Catholic Church led to the separation of church and state becoming an American Protestant ideal, one that eventually became part of constitutional law with Justice Black's opinion in *Everson*.<sup>18</sup> He states that Protestants, even those who could not on other matters be termed theologically liberal, largely united behind a kind of theological liberalism that consisted of an anti-ecclesiastical outlook. This outlook valued spiritual individualism and feared external spiritual control, whether it be by a government or a church. He also discusses how Protestants' conception of separation of church and state could exclude

<sup>12</sup> Joan DelFattore, *The Fourth R: Conflicts over Religion in America's Public Schools* (New Haven: Yale University Press, 2004). See, for example, her recounting of *Engel* and *Schempp*, on pages 67–105.

<sup>13</sup> Bruce J. Dierenfield, *The Battle over School Prayer: How Engel v. Vitale Changed America* (Lawrence: University Press of Kansas, 2007). In *Engel* the court ruled that school-sponsored prayer, even when nondenominational and voluntary, violated the Establishment Clause. *Engel*, 370 U.S. at 422–23, 436.

<sup>14</sup> Michael J. Davis, "Religion, Democracy and the Public Schools," *Journal of Law and Religion* 25, no. 1 (2009–2010): 33–56, at 42–43, 45–46. In *Abington School District*, the court ruled that a school district's requirement that verses of the Bible and the Lord's Prayer be recited each morning of the school day, even when allowing for students to be excused from the exercises, also violated the Establishment Clause. *Abington School District*, 374 U.S. at 229.

<sup>15</sup> Jeffries and Ryan, "A Political History of the Establishment Clause," 297–99, 305–21, 323.

<sup>16</sup> Steven K. Green, *The Third Disestablishment: Church, State, and American Culture, 1940–1975* (New York: Oxford University Press, 2019); Steven K. Green, *Separating Church and State: A History* (Ithaca: Cornell University Press, 2022).

<sup>17</sup> Green, *Separating Church and State*, 18–24, 32–37.

<sup>18</sup> Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002), 191–201, 454–63.

support for Catholic schools while still initially allowing prayer and Bible reading in public schools.<sup>19</sup> His theological analysis, however, goes no deeper than describing the Protestant trend toward theological individualism.

Nord's analysis, however, describes the gradual compartmentalization of religion in the modern era and its separation from such realms of public life as economics and politics. While he focuses on Protestantism, he does not contrast different Protestant traditions.<sup>20</sup> According to Nord, Martin Luther began this trend in earnest, albeit accidentally, with his break with the Catholic Church catalyzing the Protestant Reformation. The emphasis of the Protestant Reformers on interior faith, personal belief, and unmerited grace caused religion gradually to withdraw into the private realm from its previous place as an integrated piece of daily public life, "leaving the public world free to be secular."<sup>21</sup> Nord also discusses both theological and practical reasons that some Protestants (and later Catholics) in the United States supported the separation of church and state, citing belief in the freedom of conscience and the experience of living as a religious minority.<sup>22</sup> Both are correct and useful observations. However, like Hamburger, further analysis of this issue is not his primary focus.

Perhaps more surprisingly, scholars of Baptist history in the United States also do not give much focus to the theological developments underlying historical church-state beliefs.<sup>23</sup> Bill J. Leonard briefly touches on Baptists' disestablishmentarianism originating from the belief that true religion must be voluntary, but he primarily focuses on describing the existence of a Baptist divide between separationists and accommodationists on issues like parochial school funding and levels of proper involvement in social crusades.<sup>24</sup> Thomas S. Kidd and Barry Hankins similarly describe how Baptists throughout American history, including in the wake of school prayer cases like *Engel* and *Schempp*, all held to the principle of disestablishment but disagreed beyond that as to what level of separation of church and state was the most appropriate.<sup>25</sup> William Henry Brackney discusses voluntarism and religious-liberty advocacy as two core aspects of Baptist history and identity and connects Baptists' support for religious liberty with their history as a persecuted minority, though he does not make significant explicit connections between Baptist soteriology or ecclesiology and their views on separation of church and state.<sup>26</sup> While practical considerations that come from trying to exist as a religious minority certainly had their effect on Baptist beliefs regarding church-state relations, theological reasons must also be considered. Moreover,

<sup>19</sup> Hamburger, *Separation of Church and State*, 228–29.

<sup>20</sup> Warren A. Nord, *Religion and American Education: Rethinking a National Dilemma* (Chapel Hill: University of North Carolina Press, 1994), 16–42.

<sup>21</sup> Nord, *Religion and American Education*, 19.

<sup>22</sup> Nord, 134–36.

<sup>23</sup> This applies for both historians and scholars of religion. See Robert T. Handy, "The Principle of Religious Freedom and the Dynamics of Baptist History," *Perspectives in Religious Studies* 13, no. 4 (1986): 23–33.

<sup>24</sup> Bill J. Leonard, *Baptists in America* (New York: Columbia University Press, 2005), 157–81.

<sup>25</sup> Thomas S. Kidd and Barry Hankins, *Baptists in America: A History* (New York: Oxford University Press, 2015), 205–10. See also Wayne Flynt, *Alabama Baptists: Southern Baptists in the Heart of Dixie* (Tuscaloosa: University of Alabama Press, 1998), 421–24.

<sup>26</sup> William Henry Brackney, *The Baptists* (New York: Greenwood Press, 1988), 71–72, 87–107; William Henry Brackney, *Baptists in North America* (Malden: Blackwell, 2006), 21–22, 39–42. Similarly, William McLoughlin discusses the history of early Baptists in America and their struggle to articulate their beliefs on rights of conscience and religious liberty against the backdrop of the established congregationalism of colonial and early-republic New England. He argues that the evolution of religious freedom in the United States "had less to do with ideology than with the very practical exigencies of finding spiritual self-expression within the limited bounds available to dissenters within these establishments." William G. McLoughlin, *Soul Liberty: The Baptists' Struggle in New England, 1630–1833* (Hanover: University Press of New England, 1991), x.

one cannot always draw a clear line between theological and practical sources of Baptist beliefs on this issue.

Brett Bertucio does not analyze Baptists or Protestants as a whole, but he does use a very useful analytical framework, political theology, to examine the beliefs and jurisprudence of Justice Black. He defines political theology in the same manner as legal theorist Paul Kahn: a framework that is “generally concerned with understanding how theological commitments shape visions of political life.”<sup>27</sup> Applying the framework to Black, Bertucio describes how his Baptist upbringing and the influence of Baptist ideas of religious freedom played a significant role in his Establishment Clause judicial opinions.<sup>28</sup> Barbara Perry argues the same while also examining Black’s theology for the reasoning behind his jurisprudence, though she notes that Black’s separationist views were also likely part of an adverse reaction to negative experiences with Baptists early in his life.<sup>29</sup>

Using the same premise of theology’s influence in political and legal thought that Bertucio and others have used as their framework, I build from Hamburger’s and Nord’s brief analyses of Protestants’ theological reasons for their support of absolute separation of church and state, as those reasons relate specifically to Baptists. To date, however, no scholarship has primarily focused on the ecclesiological reasons that mid-century Baptist clergy drew upon to support an absolutist view of the separation of church and state in the realm of education<sup>30</sup>—a significant gap that if filled would help to explain Baptists in the United States and their relationship with church-state legal battles. It also explains, at least in part, the church-state views and judicial opinions of Justice Black, who, though no longer a Baptist when he served on the court, retained much Baptist influence from his upbringing on church-state issues. Because the opinions written by Black in *Everson* and *McCollum* established the strict separationist philosophy that, until the 1980s, largely defined Establishment Clause jurisprudence, these two cases marked the beginning—not of a Christian defeat in the American legal system, as later Baptists would remember it—but rather of a generation of Baptist triumph in the way courts dealt with church-state issues.

The foundation of Baptist belief and doctrine was the Protestant canon of the Bible and their interpretations of it. Their study of the Bible led them to a much more distinct separation between the actions of a church and its clergy from an individual’s path to salvation than that made by either Catholics or other Protestants. The church, through the preaching of the minister, could be an instrument through which God the Holy Spirit could stir a desire for conversion in a listener, but beyond this, the church played no formal, active role in an individual’s salvation. Church ordinances like baptism were important acts of obedience and exterior witnesses to salvation, but in themselves, they contributed nothing to a person’s salvation. This stricter delineation of the distinction between church actions and individual salvation caused Baptists to heavily prioritize individual interior conversion—repentance from sin and faith in Jesus Christ as lord and savior—over, though not to the exclusion of, collective exterior actions like baptism. An individual’s conversion could not be full and free if it carried with it any hint of coercion, and even the prospect of mere material advantage could risk corrupting a pure conversion. Furthermore, a civil government mandating or heavily encouraging church ordinances like undergoing baptism would render the participation itself spiritually useless, or worse, spiritually detrimental by precluding the accomplishment of the act’s purpose. Therefore, Baptist ecclesiology more

<sup>27</sup> Brett Bertucio, “The Political Theology of Justice Hugo Black,” *Journal of Law and Religion* 35, no. 1 (2020): 79–101, at 81–82.

<sup>28</sup> Bertucio, “The Political Theology of Justice Hugo Black,” 91–92.

<sup>29</sup> Barbara A. Perry, “Justice Hugo Black and the ‘Wall of Separation’ between Church and State,” *Journal of Church and State* 31, no. 1 (1989): 55–72, at 56, 60.

<sup>30</sup> Jeffries and Ryan, “A Political History of the Establishment Clause,” 324.

firmly separated and distinguished the spheres of influence rightfully possessed by the church and the state. The history of Baptists as dissenters in both Catholic and other Protestant lands, and the persecutions they underwent in attempting to practice and spread what they believed to be true Christianity, reinforced the belief that a wall between church and state was the right arrangement. This historically informed ecclesiology also tended to make Baptists push more vehemently against any hint of an established church, and they saw more blatant accommodationism (a primary issue at hand in each of the examined cases) as the beginning just such a threat.<sup>31</sup>

### Historical Theology: From Rome to Rhode Island

Protestantism arose from groups of dissenters in early modern Europe who separated themselves from both the ecclesiastical and temporal authority of the Catholic Church beginning in the 1520s and 1530s. Baptists were not among the first generation of religious revolutionaries, but they had an immediate progenitor: the Church of England. The Church of England separated from the Catholic Church under Henry VIII, with the Act of Supremacy passed by Parliament in 1534.<sup>32</sup> Despite the forceful imposition of the schism on the English people, only with the ascension of Elizabeth I to the throne in 1558 did the Anglican brand of Protestantism become firmly and permanently entrenched in England.<sup>33</sup> This arrangement, far from separating church and state, further centralized it by making the English monarch the supreme head of the ecclesiastical hierarchy in addition to the civil hierarchy.

A small but notable segment of the English population, who came to be known as Puritans, were unhappy not only with the highly hierarchical church governance structure but also with what they saw as ceremonial vestiges of Catholicism in the Church of England.<sup>34</sup> These Puritans hoped to reform Anglicanism to resemble more closely the doctrines and practices of the various continental Reformed churches. By the end of the sixteenth century, however, a few Puritans took the more radical step of separating entirely from the Church of England, seeing it as incapable of adequate reform. Over the course of the following decades, the Puritan and Separatist movements spawned two separate but related groups. Out of the Puritans came the Particular Baptists, who were Calvinistic and held to the view of a limited (or particular) atonement, and out of the Separatists came the General Baptists, who held to Dutch theologian Jacob Arminius's view of a universal (or general) atonement.<sup>35</sup> As dissenters from the established church, both groups of Baptists suffered persecution in England. A founding leader of the General Baptists, Thomas Helwys, was

<sup>31</sup> Accommodationism is the belief that it is constitutional for the government to provide aid to religion as long as such aid does not favor or discriminate against any one religion, sect, or belief system. It also allows for some limited, non-coercive expressions of religiosity by a governmental entity. The opposing view is separationism (sometimes called strict separationism), which holds as unconstitutional any direct governmental aid to religion or displays of religion, even when equal, nondiscriminatory, and noncoercive.

<sup>32</sup> Michael W. McConnell, "Establishment at the Founding," in *No Establishment of Religion*, ed. T. Jeremy Gunn and John Witte Jr. (New York: Oxford University Press, 2012), 45–69, at 48.

<sup>33</sup> Anthony L. Chute, Nathan A. Finn, and Michael A. G. Haykin, *The Baptist Story: From English Sect to Global Movement* (Nashville: B&H, 2015), 14. Though the name Baptist may conjure the idea of origins from, or at the very least a close relationship with, the Anabaptist reformers, Chute, Finn, and Haykin cite Baptist historian Barrie R. White's assessment of the idea. White asserts that, while such a connection cannot be unquestionably disproven, no direct evidence exists for it, and a much more readily available explanation of Baptist origins lies in their emergence from English Puritans and Separatists. Chute, Finn, and Haykin, *Baptist Story*, 14; see also, B. R. White, *The English Baptists of the Seventeenth Century*, rev. ed. (London: Baptist Historical Society, 1996), chapters 1–2.

<sup>34</sup> John Craig, "The Growth of English Puritanism," in *The Cambridge Companion to Puritanism*, ed. John Coffey and Paul C. H. Lim (New York: Cambridge University Press, 2008), 34–47, at 44.

<sup>35</sup> Chute, Finn, and Haykin, *The Baptist Story*, 16–22.

imprisoned for the final four or so years of his life, possibly due to his 1612 treatise, *A Short Declaration of the Mystery of Iniquity*, which he sent to King James I. Helwys criticized the Church of England (among other Christians) and the contemporary relationship between church and state. The church of pastor Henry Jacob, which was the first identifiably Particular Baptist church, endured harassment from Anglican authorities for supposedly being a Separatist church. After the Restoration and the beginning of the reign of Charles II, legislation designed to disempower Puritans in the country also had the effect of subjecting Baptists to legal harassment, imprisonment, and seizure of property. This caused some to leave the country.<sup>36</sup>

In addition to sharing common experiences of suppression at the hands of the state-established Church of England, both General and Particular Baptists shared a nascent sacramental and ecclesial theology that was, in many respects, quite different from that of both Catholics and most other Protestants. At the time, despite significant doctrinal differences on the effects of baptism, ecclesiologies of the Catholic, Anglican, Lutheran, and Reformed traditions viewed the church as a covenantal community that was both a continuity and fulfillment of the Jewish covenantal community before Jesus Christ: as such, just as God brought children into the covenant he had made with the Jewish people through the sign of circumcision, he also brought children into the covenant he had made with the church through the sign of baptism.<sup>37</sup> For both Jews and Christians, then, having one's children initiated into the covenantal community through the sacramental sign was a solemn religious duty that parents had the obligation to perform for their children. This communal view of the church, into which new members were initiated soon after their birth and therefore without their express consent, reinforced the view, as put by Anthony Chute, Nathan Finn, and Michael Haykin, that "conceived of the church as an established state entity, where the arm of the government maintained religious uniformity and infant baptism was all but required for citizenship," especially when these churches often existed (whether naturally or by force) in milieus that nearly universally shared the same tradition of Christianity.<sup>38</sup>

<sup>36</sup> Chute, Finn, and Haykin, 41–44.

<sup>37</sup> Muzio Calini et al., *The Catechism of the Council of Trent*, trans. J. Donovan (Baltimore: Lucas Brothers, 1829), 123. Among the justifications that Thomas Rogers gives for the Church of England's retention of infant baptism, he states, "Baptism is unto us as circumcision was unto the Jews: but the infants of the Jews were circumcised; therefore the children of Christians are to be baptized"; "Children belong unto the kingdom of heaven, and are in the covenant; therefore the sign of the covenant is not to be denied them." Thomas Rogers, *The Catholic Doctrine of the Church of England, an Exposition of the Thirty-Nine Articles*, ed. J. J. S. Perowne (Cambridge: Cambridge University Press, 1854), 279. Martin Luther identifies circumcision as the old sign whereby God marked his people, the Jews, until Christ came and instituted a new mark of faith for both Jews and Gentiles: baptism. Martin Luther, *Luther's Works: Lectures on Genesis, Chapters 15–20*, vol. 3, ed. Jaroslav Pelikan (St. Louis: Concordia, 1961), 95. John Calvin writes in his *Institutes of the Christian Religion*,

For just as circumcision was a pledge to the Jews, by which they were assured of their adoption as the people and family of God, and on their parts professed their entire subjection to him, and therefore was their first entrance into the Church, so now we are initiated into the Church of God by baptism, are numbered among his people, and profess to devote ourselves to his service. Hence it is evident, beyond all controversy, that baptism has succeeded in the place of circumcision. ... For [God] expressly pronounces that the circumcision of a little infant should serve as a seal for the confirmation of the covenant. But if the covenant remains firm and unmoved, it belongs to the children of Christians now, as much as it did to the infants of the Jews under the Old Testament.

John Calvin, *Institutes of the Christian Religion*, vol. 2, trans. John Allen, 6th ed. (Philadelphia: Presbyterian Board of Christian Education, 1932), book 4, chapter 16, sections 4–5, at 496–97.

<sup>38</sup> Chute, Finn, and Haykin, *The Baptist Story*, 26; Norman P. Tanner, ed., *Decrees of the Ecumenical Councils*, vol. 2, *Trent to Vatican II* (Washington, DC: Georgetown University Press, 1990), 686. The Council of Trent condemned the

The radical difference between Baptist ecclesiology and those of the other Christian traditions, as well as this part of Baptist theology is evident in the similarities among Catholics and magisterial Protestants in their general beliefs on the relationship of the church to salvation (there are, of course, several significant differences in the specifics). The Catholic Church and the magisterial reformers generally agreed on the necessity of the visible and institutional church for the individual Christian to obtain salvation. The Council of Trent declared as anathema any person who professed “that the sacraments of the New Law are not necessary unto salvation,” that any Christian could administer any of the sacraments, or that a person justified (saved) by faith is not bound to observe the commandments of the church.<sup>39</sup> These “sacraments of the New Law,” which consisted of the seven sacraments of the church, were valid only if administered or (in the case of marriage) presided over by a member of the church’s clergy. Baptism was the lone exception, and even then, a lay Catholic or non-Catholic could licitly administer baptism only in extraordinary circumstances, such as when a clergyman was unavailable.<sup>40</sup> Anglicans rejected the Catholic position that the sacraments were efficacious *ex opere operato* (from the work performed, or by virtue of the nature of the sacrament itself) and the belief in the existence of seven sacraments, but they continued to believe the ordinary necessity of the two sacraments of baptism and holy communion, administered as parts of the operations of the visible church, for salvation. However, they were efficacious *ex opere operantis*—as instruments and signs of salvation by virtue of the faith of the recipient (or of the parents or godparents in the case of infant baptism) rather than by virtue of the sacrament itself.<sup>41</sup>

This view was very similar to that of Martin Luther and subsequent Lutheran theologians.<sup>42</sup> John Calvin also believed that the ministers of the church were the only possible administrators of the sacraments.<sup>43</sup> He also agreed on the matter of the sacraments’ contingent efficacy, though he taught that the connection between the sacraments and salvation, while real, was indirect and, strictly speaking, unnecessary.<sup>44</sup> Despite this, he

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belief that those who, being baptized as infants, choose to reject the Catholic faith as adults “should be left to their own decision and not, in the meantime, coerced by any penalty into the christian [sic] way of life” other than that of excommunication. This implies civil penalties and, therefore, implicitly holds baptism to be also a sort of rite of citizenship, after which the baptized becomes newly subject to a number of civil laws. As Rogers wrote, “The examples are manifold, and pregnant, shewing the principality of kings over all persons and causes ... Which being true, then false is it which the Papists deliver; viz. that [t]he king’s excellency of power is in respect...not of popes, bishops, or priests, as they have cure of souls.” Rogers, *Doctrine of the Church of England*, 338–39. For Luther, the magistrate was “to see to [his subjects’] spiritual needs by supporting the ministry of the locally established church, and encouraging their attendance and participation through the laws of Sabbath observance, tithing, and holy days,” even though he was to do this “without trespassing on the ecclesiastical office.” John Witte, Jr., *Law and Protestantism: The Legal Teachings of the Lutheran Reformation* (New York: Cambridge University Press, 2002), 112. For Calvin, though the state had no power to make ecclesiastical laws, it did have the obligation to enforce church laws (and by extension, God’s laws) regarding religion and worship. John Witte, Jr., *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (New York: Cambridge University Press, 2007), 65.

<sup>39</sup> Tanner, *Decrees of the Ecumenical Councils*, 2:680, 684–85.

<sup>40</sup> Calini et al., *The Catechism of the Council of Trent*, 106, 119–20, 141–42, 172, 196, 210, 223, 226–27, 234–35. The illicit administration of a baptism, however, would not invalidate the baptism itself.

<sup>41</sup> Rogers, *Doctrine of the Church of England*, 175, 246–48, 265, 278, 283.

<sup>42</sup> Mickey L. Mattox, “Sacraments in the Lutheran Reformation,” in *The Oxford Handbook of Sacramental Theology*, ed. Hans Boersma and Matthew Levering (New York: Oxford University Press, 2015), 269–82, at 274–76.

<sup>43</sup> Calvin, *Institutes*, 491, 573–74, 577–78 (book 4, chapter 15, section 20; chapter 17, sections 39, 43). Calvin believed the administration of baptism either outside of a church or by a layperson, even when the person to be baptized was in immediate danger of death, to be unacceptable and indefensible. This was buttressed by Calvin’s belief that salvation was tied to the sacraments in a more indirect manner than the Lutherans or the first Anglicans supposed.

<sup>44</sup> Calvin, *Institutes*, 464–68, 477–78, 492–93, 525–26, 573–74 (book 4, chapter 14, sections 14–17; chapter 15, sections 1–2, 22; book 4, chapter 17, sections 1, 39).

believed that to voluntarily disassociate from a visible, orthodox church was the equivalent of abandoning one's hope of salvation.<sup>45</sup> When these Protestant traditions spread to the United States, the connection between a more institutionalized Christianity—with defined means of grace and paths to salvation existing within defined sacramental frameworks delivered through formally ordained clergy—and a closer relationship between church and state gradually faded from the seventeenth through the nineteenth centuries as each of these traditions in the United States in turn supported a firm separation between church and state. (That evolution, however, is beyond the scope of this article.)

In contrast to the views of the Catholic Church and the magisterial reformers, Baptists did not view the church as manifested through an inter-congregational hierarchy or as a covenantal community that, paralleling the Jewish covenantal community, included those brought into it as infants of believing parents. Rather, they viewed the church primarily as the visible reality on earth of Christ's spiritual kingdom, manifested as a localized "company of visible saints, called and separated from the world by the word and Spirit of God, to the visible profession of faith of the gospel, being baptized into that faith, and joined to the Lord, and each other, by mutual agreement in the practical enjoyment of the ordinances commanded by Christ their head and king."<sup>46</sup> Only individuals who possessed a full understanding of the Gospel, repented of their sin, and visibly professed their faith in Jesus Christ could receive baptism, though Baptists still held baptism to be a necessary prerequisite for membership in the local church congregation. This meant that no person came into Christ's visible church without their full, free, and conscious agreement.

Though Baptists required baptism for membership within a visible church congregation and viewed it as an important step of obedience to Christ and a tangible witness to one's profession of faith, they viewed baptism as distinctly separate in a technical sense from salvation. Salvation was a permanent, once-and-for-all regeneration of the soul brought about by the power of the Holy Spirit and applied visibly through the faith of the recipient. The ordinary means of grace for this regeneration was the preaching of the Gospel. But it must be noted that they also believed that the grace of the Holy Spirit would give the Christian the desire and power to obey the commands of Christ, one of which would be to receive baptism. Yet while baptism would be a logical outflowing of the salvation of a Christian, it would not itself act as a means of grace, even in the *ex opere operantis* manner of other Protestant traditions.<sup>47</sup>

Baptists' beliefs in the purely voluntary nature of conversion, baptism, and church membership; the completely internal nature of the moment of salvation; and the purely symbolic nature of baptism's efficacy were all foundationally different from those of both Catholics and the magisterial reformers. These unique beliefs in turn effected a foundationally different view of how the church and state should properly interact with each other. Baptists thought that a legal and political wall should be built in order to keep the church free to conduct its own internal affairs and spread the Gospel through evangelization without interference from civil government. This freedom would not just apply to Baptists. When the Reverend T. F. Callaway, pastor of the First Baptist Church of Thomasville, Georgia wrote in the wake of the *Everson* decision in 1947 that Baptists "have ever been the proponents of complete religious liberty," he was correct.<sup>48</sup> In his fateful 1612 treatise, Helwys expressed the provocative belief in "soul freedom" or religious liberty. Helwys

<sup>45</sup> Calvin, *Institutes*, 231–32 (book 4, chapter 1, section 10).

<sup>46</sup> *The First London Baptist Confession of Faith*, 2nd ed. (1646), section 23, New Orleans Baptist Theological Seminary, Baptist Center for Theology and Ministry, [https://www.nobts.edu/baptist-center-theology/confessions/First\\_London\\_Baptist\\_Confession\\_of\\_Faith\\_1646.pdf](https://www.nobts.edu/baptist-center-theology/confessions/First_London_Baptist_Confession_of_Faith_1646.pdf).

<sup>47</sup> *The First London Baptist Confession of Faith*, sections 24, 26, 28, 39.

<sup>48</sup> T. F. Callaway, "Catholic Camel Gets Nose under Our Tent," *Christian Index* 127, no. 10 (1947): 1, 12, box 285, folder 4, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

argued that the state had no business imposing civil punishments on its citizens for spiritual matters.<sup>49</sup> Therefore, the state had no authority to mandate that its citizens be a member of any one sect or religion. *The First London Baptist Confession of Faith* of 1644 agreed, stating that “it is the magistrates [*sic*] duty to tender the liberty of mens’ consciences” and that this liberty “is the tenderest thing unto all conscientious men ... without which all other liberties will not be worth the naming, much less the enjoying.”<sup>50</sup>

This belief remained consistent as Baptists began to immigrate to the American colonies, where their situation did not always prove to be more amicable than in England or continental Europe. In early New England, the Puritan and Congregationalist majority suppressed, ostracized, and banished the few Baptists among them, including the famous Rhode Island patriarch Roger Williams, who fled the Massachusetts colony to establish the city of Providence in 1636. His banishment was the response to his opposition to the blending of church and state that he saw in Massachusetts and his views of complete voluntarism regarding religion.<sup>51</sup> The same year that English Baptists published their first confession of faith in London, Williams published *The Bloody Tenent of Persecution*, in which he expounds on his accession to soul freedom in much the same manner as Helwys, stating that civil authorities are not “judges, Governours or Defendours of the Spirituall or Christian state and Worship.” It also was not the job of the state to enforce “a uniformity of religion,” and such attempts always prove to be “the greatest occasion of civill Warre, ravishing of conscience, persecution of Christ Jesus in his servants, and of the hypocrisie and destruction of millions of souls.”<sup>52</sup> The charter for Rhode Island that Williams received included a provision guaranteeing complete religious freedom for all of the colonies’ inhabitants.<sup>53</sup>

It was also in one of Williams’s writings that he metaphorizes his concerns over the “ravishing of conscience” and the “hypocrisie and destruction of millions of souls” using imagery that would eventually become standard imagery in the United States, albeit with contested applications. He wrote, “When [Christians] have opened a gap in the hedge or wall of Separation between the Garden of the Church and the Wildernes of the world, God hath ever broke down the wall itselfe, removed the Candlestick, etc. and made his Garden a Wildernesse, as at this day. And that therefore if he will ever please to restore his Garden and Paradiice again, it must of necessitie be walled in peculiarly unto himselfe from the world.”<sup>54</sup> Williams’s primary reason for the concept of the wall of separation was not to prevent the church from over-extending its reach into the government or society. Rather, it was that too much interference by the government in church affairs would bring worldly corruption into the church, which, being even more dangerous than persecutions, would destroy the pure consciences and genuine, pure faith of those within the church due to civil coercion. This form of destruction would quickly turn the garden of lively Christianity into a barren wilderness of spiritual perversion.<sup>55</sup>

### Baptist Separatism in the Twentieth Century

By the early twentieth century, many Baptist churches in the United States had coalesced under one of three denominational associations: the Northern Baptist Convention (renamed

<sup>49</sup> Chute, Finn, and Haykin, *The Baptist Story*, 19–20.

<sup>50</sup> *The First London Baptist Confession of Faith*, section 48.

<sup>51</sup> Chute, Finn, and Haykin, *The Baptist Story*, 27–30.

<sup>52</sup> Roger Williams, *The Bloody Tenent, of Persecution, for Cause of Conscience, Discussed, in a Conference betweene Truth and Peace* (London, 1644), 3–4.

<sup>53</sup> Chute, Finn, and Haykin, *The Baptist Story*, 30.

<sup>54</sup> Roger Williams, *Mr. Cottons Letter Lately Printed, Examined and Answered* (London, 1644), 45.

<sup>55</sup> See Mark DeWolfe Howe, *The Garden and the Wilderness: Religion and Government in American Constitutional History* (Chicago: University of Chicago Press, 1965), 6.

the American Baptist Convention in 1950), the Southern Baptist Convention, and the National Baptist Convention (formed predominantly by Black churches). All three carried forward the traditional Baptist notion of complete separation of church and state, as espoused by Williams, into the mid-twentieth century. The Southern Baptist Convention, which eventually became the nation's largest Protestant denomination, adopted its first formal confession of faith in 1925, *The Baptist Faith and Message*. This document covered topics of theology and lived faith such as the Trinity, the nature and work of Jesus Christ, the proper structure and operations of a church congregation, the Christian life, and the relationship of the church and the world.<sup>56</sup> The convention revised the confession multiple times over the next seventy-five years, but the one section that stayed the same through the revisions was the section "Religious Liberty":

God alone is Lord of the conscience, and he has left it free from the doctrines and commandments of men which are contrary to his Word or not contained in it. Church and state should be separate. The state owes to the church protection and full freedom in the pursuit of its spiritual ends. In providing for such freedom no ecclesiastical group or denomination should be favored by the state more than others. Civil government being ordained of God, it is the duty of Christians to render loyal obedience thereto in all things not contrary to the revealed will of God. The church should not resort to the civil power to carry on its work. The gospel of Christ contemplates spiritual means alone for the pursuit of its ends. The state has no right to impose penalties for religious opinions of any kind. The state has no right to impose taxes for the support of any form of religion. A free church in a free state is the Christian ideal, and this implies the right of free and unhindered access to God on the part of all men, and the right to form and propagate opinions in the sphere of religion without interference by the civil power.<sup>57</sup>

In addition to the duty of the government to allow religious groups to operate freely, two other duties stand out. The first is the sentence calling for a governmental policy of non-favoritism toward religious groups. If the statement had stopped here, then the definition of "separation of church and state" could easily have allowed for an accommodationist viewpoint among Southern Baptists, which would have permitted governments to financially aid religious schools, as long as they were nondiscriminatory in their funding with regards to the faith espoused by the school. The confession, however, goes on to establish a more strict-separationist viewpoint, at least with regards to financial aid, when it asserts that governments have no right to use public money for "any form of religion." Presumably, this would include not only schools, but also churches, orphanages, hospitals, and other church-affiliated or church-run social agencies.

When *Everson* came before the Supreme Court in the fall of 1946, the United States was in the midst of the latest of many waves of anti-Catholicism. Following WWII, with the fight against authoritarian states and with the increasing menace of the communistic Soviet

<sup>56</sup> Southern Baptist Convention, *The Baptist Faith and Message* (1925), *New Orleans Baptist Theological Seminary*, [https://www.nobts.edu/baptist-center-theology/confessions/Baptist\\_Faith\\_and\\_Message\\_1925.pdf](https://www.nobts.edu/baptist-center-theology/confessions/Baptist_Faith_and_Message_1925.pdf).

<sup>57</sup> Southern Baptist Convention, *The Baptist Faith and Message* (1925), section 18 ("Religious Liberty.") One word was changed in this section in subsequent revisions. The 1963 version changed the phrase "The state owes to the church protection" to the phrase "The state owes to every church protection." Southern Baptist Convention, *The Baptist Faith and Message* (1963), *Texas Baptists*, <https://s3.amazonaws.com/texasbaptists/about/Baptist-faith-and-message.pdf>. The 2000 version kept this revision. Southern Baptist Convention, *Baptist Faith and Message 2000* (2000), *Southern Baptist Convention*, <https://bfm.sbc.net/bfm2000/>.

Union, Americans had both an increased respect for liberal democratic principles, including institutional secularism, and a fear of foreign authoritarian control.<sup>58</sup>

Both of these attitudes led to heightened concerns over the rising level of political influence possessed by the Catholic Church, the members and hierarchy of which were widely perceived to answer, ultimately, to a foreign pope reigning in a foreign land. The issue of education funding fueled these concerns. Though Catholics had campaigned for decades for public funding for Catholic schools, the debate gained more national prominence beginning in the late 1930s, when debates over federal funding for public elementary schools also involved Catholics campaigning for federal funding to be given to Catholic schools.<sup>59</sup> This campaign confirmed in the minds of many Americans the supposed desire of the Catholic Church to turn the United States into a Catholic nation, in part by destroying the secular, democratic educational integrity of the public school system.<sup>60</sup> For Baptists, fears of such a fate for the country not only raised strong objection because of blind anti-Catholic prejudice, but also because the Catholic Church and its official doctrine rejecting secularism opposed Baptists' religious beliefs on the proper, separate roles of church and state.<sup>61</sup>

In anticipation of the oral arguments in *Everson*, the Joint Conference Committee on Public Relations for the Baptists of the United States, along with the General Conference of Seventh-Day Adventists, filed a joint brief as *amici curiae*. Representing the Southern Baptist Convention, the Northern Baptist Convention, and the National Baptist Convention, the Joint Conference Committee stated unambiguously in the brief that the legislation allowing subsidies for transportation of children to private schools violated both the First and Fourteenth Amendments.<sup>62</sup> In addition to their argument that the Fourteenth Amendment made the First Amendment guarantees applicable to the states, the brief's reasoning rested on two primary arguments. The first argument stated that public tax money should not be

<sup>58</sup> Hamburger, *Separation of Church and State*, 449–51.

<sup>59</sup> Zucker, "Better a Catholic than a Communist," 2075–76; Nord, *Religion & American Education*, 73.

<sup>60</sup> Jeffries and Ryan, "A Political History of the Establishment Clause," 312.

<sup>61</sup> Multiple popes in the nineteenth and early twentieth centuries had issued official pronouncements condemning the separation of church and state, civil religious freedom, and government neutrality in religious matters, with the most famous example being Pope Pius IX in his 1864 "Syllabus of Errors." American priest and theologian John A. Ryan commented in a 1922 book, *The State and the Church*, which became standard political reading at Catholic colleges for several decades, that such propositions only applied fully to a completely Catholic state, wherein the political community was almost entirely, if not entirely, composed of Catholics. Nevertheless, even in a pluralistic country like the United States, where religious toleration and a non-sectarian government were necessary, Ryan contended that a change in the religious demographic of the country resulting in a thoroughly Catholic population could legitimate a change in the Constitution to establish a Catholic state and certain proscriptions on non-Catholic religious groups. See John A. Ryan and Moorhouse F. X. Miller, *The State and the Church* (New York: Macmillan, 1922), 37–39; Keith J. Pavlischek, *John Courtney Murray and the Dilemma of Religious Toleration* (Kirkwood: Thomas Jefferson University Press, 1994), 42–43. The promulgation by the Second Vatican Council of *Dignitatis Humanae*, which proclaimed freedom of religion to be a fundamental human right that governments must protect, along with demographic changes around the world in the twentieth century, changed the tone of mainstream theological conversations among Catholics such that opposition to secularism in society no longer included opposition to civil disestablishmentarianism or to legal and political equality for all religious groups. For example, see sections 2104–2109 of the *Catechism of the Catholic Church* (Vatican City: Libreria Editrice Vaticana, 1997).

<sup>62</sup> Brief of the General Conference of Seventh-Day Adventists and the Joint Conference Committee on Public Relations Representing the Southern Baptist Convention, the Northern Baptist Convention, the National Baptist Convention, Inc. *Amici Curiae*, *Everson v. Board of Education of the Township of Ewing*, 330 U.S. 1 (1947) (No. 52) (1946), 4–5. Parties not directly involved in the case, yet interested in the outcome, may, under certain conditions, file their own legal briefs as "friends of the court" giving their legal opinion or advice on the matter. The same year that they filed the brief, 1946, the Joint Conference Committee on Public Relations changed its name to the Baptist Joint Committee on Public Affairs.

used for private purposes, such as private schools in areas where public schools are available, even if those purposes have an incidentally beneficial effect on the public welfare. This objection would apply regardless of whether or not the school was religiously affiliated, but in the case of a religious school, such use of public funds would consist of subsidizing the exercise of religious liberty, which the brief argued constituted a private use.<sup>63</sup> Therefore, the taking of private property in the form of tax revenue for the private use of others was a violation of the Fourteenth Amendment's Due Process Clause, which prohibits states from "depriv[ing] any person of life, liberty, or property, without due process of law."<sup>64</sup> The other argument dealt directly with the Establishment Clause, stating that subsidies for the transportation of children to sectarian schools equaled "aid to such organizations in the teaching of their religious tenets and the extension of their religious ministrations." This aid, in turn, "contravene[d] the mandate of the separation of church and state."<sup>65</sup>

The authors of the brief emphasized the properly neutral and, in their words, "absolute" nature of such separation. When applied to the religious aspect of the education of private or parochial school children, separation of church and state dictated that the "state must be 'hands off,' in aid as well as restriction."<sup>66</sup> The brief approvingly cited quotes from the opinions of Supreme Court Justices Robert Jackson and Felix Frankfurter in the 1943 case *Board of Education v. Barnette*, in which Jackson said the Bill of Rights served merely to "withdraw certain subjects" from political controversy and Frankfurter said that the constitution's religious freedom protection merely "terminated disabilities" and "did not create new privileges." Even though the state had the duty to give citizens the opportunity to exercise their religious freedom, including sending their children to religious schools, the "hands-off" position meant that the citizen who chose to exercise their religious freedom "must do so at his own expense."<sup>67</sup>

For Baptists, the belief in the absolute separation of the government from religious affairs was, at least in part, tied to their connection of the furnishment of aid and the ability to control. The brief traced government aid as "inevitably" leading to government control.<sup>68</sup> When the Supreme Court released its ruling in *Everson* on February 10, 1947, the opinion of the court and both dissenting opinions also viewed the two concepts as connected. Justice Black wrote that the court should give the same broad interpretation to the Establishment Clause that the court had previously given to the Free Exercise Clause, calling the interrelation of the two "complementary."<sup>69</sup> Approvingly citing the Supreme Court's 1871 decision *Watson v. Jones*, Black quoted the line saying that the US government "rescued the temporal institutions from religious interference" and "secured religious liberty from the invasion of the civil authority," both equally for the sake of civil liberty.<sup>70</sup> Jackson, in his dissent, was more blunt. "The policy of our Federal Constitution," he wrote with an exasperated tone, "has never been wholly pleasing to most religious groups. They are quick to invoke its protections; they are all irked when they feel its restraints." The court had gone a long way, possibly to an unreasonable extent, in order to protect the free exercise of religion, specifically the right to proselytize, but these protections had a flip side that religious

<sup>63</sup> Brief of the Joint Conference Committee in *Everson*, 5–7.

<sup>64</sup> US Constitution, Amendment XIV, Section 1.

<sup>65</sup> Brief of the Joint Conference Committee in *Everson*, 7.

<sup>66</sup> Brief of the Joint Conference Committee in *Everson*, 15.

<sup>67</sup> *Board of Education v. Barnette*, 319 U.S. 624, 670 (1943) (Frankfurter, J., dissenting). Ironically, the context for Frankfurter's quotation is his dissenting opinion arguing in favor of a school policy mandating the saluting of the US flag, despite the legal challenge by Jehovah's Witnesses students, for whom this mandate violated their conscience for religious reasons.

<sup>68</sup> Brief of the Joint Conference Committee in *Everson*, 16–18.

<sup>69</sup> *Everson*, 330 U.S. at 14–15.

<sup>70</sup> *Everson*, 330 U.S. at 15 (quoting *Watson v. Jones*, 80 U.S. 679, 730 (1871)).

groups had to accept. “Religious teaching cannot be a private affair when the state seeks to impose regulations which infringe on it indirectly, and a public affair when it comes to taxing citizens of one faith to aid another, or those of no faith at all ... If the state may aid these religious schools, it may therefore regulate them.”<sup>71</sup> Justice Wiley Rutledge, in his dissent, wrote that the constitution secures the free exercise of religious training, teaching, and observance, “[b]ut to that end it does deny that the state can undertake or sustain them in any form or degree.” This “twofold protection” via a dual prohibition “makes [the religious] function altogether private.”<sup>72</sup>

The furor among Baptists that Black’s majority opinion in favor of bus subsidies to Catholic schools raised, however, had little to do with a fear that serious efforts would then be made to regulate religious schools or institutions. Baptists feared the opposite. Rather than primarily fearing that the ruling would lead to Free Exercise Clause violations for Catholics, Baptists believed that the ruling was an Establishment Clause violation in favor of Catholics and would lead to Free Exercise Clause violations for everyone else. Rather than fearing the US government’s regulation unduly interfering in Catholic affairs, they mainly feared that the Catholic Church was becoming too influential in the US government. Much like Baptist pastor Harold Phillips in Ohio, Georgia Baptists expressed this concern in the days following the *Everson* decision. The *Christian Index*, a periodical by and for Georgia Baptists, featured commentary on the ruling in its March 6, 1947, issue. The article by T. F. Callaway took up the front page under a title evoking the same metaphor that Phillips had used: “Catholic Camel Gets Nose under Our Tent.” Callaway called the ruling a “body blow” against church-state separation and warned that, if the court allowed the ruling to stand, the decision was “destined to destroy completely our Constitutional protection” because, he believed, “the Roman hierarchy will press” such a victory for Catholics “to its logical limit.” Because he saw the complete separation of church and state as a “sacred principle” that formed “the backbone of religious liberty,” the taxpayer support of religious (especially Catholic) institutions constituted a much bigger and more foundational problem than the simple misuse of funds for a disapproved-of purpose.<sup>73</sup> Expressing similar fundamental concerns, associate pastor David Cooper of the First Baptist Church of Sheffield, Alabama, who was studying at the time at the Southern Baptist Theological Seminary in Louisville, Kentucky, wrote to Justice Jackson, “Those of us who are studying Church History here, feel that any inroads in the direction of union of church and state are exceedingly dangerous.”<sup>74</sup> Pastors from various other Baptist churches, especially in the South, also wrote disapprovingly for the same reason.<sup>75</sup>

The assessment of Cecil S. Ward in a newsletter to his congregation at the Norwood Baptist Church in Birmingham, Alabama, was even more dire. He asserted that by successfully violating the separation of church and state, Catholics had “dented the armor of our democracy” and now were plotting to destroy the constitution’s religious freedom provisions and “swallow up [the United States]’ entire school system, forcing Roman Catholicism on all

<sup>71</sup> *Everson*, 330 U.S. at 27–28 (Jackson, J., dissenting).

<sup>72</sup> *Everson*, 330 U.S. at 52 (Rutledge, J., dissenting).

<sup>73</sup> Callaway, “Catholic Camel Gets Nose under Our Tent,” 1, 12. Callaway’s February 12 letter to Justice Black expressed similar sentiments. T. F. Callaway, letter to Hugo Black, February 12, 1947, box 285, folder 5, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>74</sup> David Cooper, letter to Robert Jackson, February 25, 1947, box 137, folder 3, Robert H. Jackson Papers, Manuscript Division, Library of Congress.

<sup>75</sup> See, for example, the letters to Justice Black from Charles Duncan, pastor of the First Baptist Church of Camilla, Georgia; W. G. Stracener, Pastor of the East Hill Baptist Church in Pensacola, Florida; H. Ross Arnold, pastor of the First Baptist Church of Jacksonville, Alabama; and Robert L. Orr, pastor of the Brownsville Baptist Church in Brownsville, Tennessee: Letters to Hugo Black, box 285, folder 5, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress. See also Hamburger, *Separation of Church and State*, 465–68.

who attend the schools.”<sup>76</sup> Ward drove home the gravity of his grim vision by invoking extensively the memory of the Spanish Inquisition and the “blood of innocent, freedom-loving, and God-worshipping men and women” who suffered and died at the hands of the Catholic Church—a scenario he claimed was coming in the United States due to the Supreme Court’s decision to allow the “Catholic camel’s nose,” and soon the whole camel, into the country’s tent.<sup>77</sup> In De Kalb, Illinois, Willard Foote, pastor of the First Baptist Church, also prophesied “the destruction of our liberties.”<sup>78</sup>

At an institutional level, Baptist leadership also expressed the feelings of endangerment that each of the above ministers shared, though for the most part without Ward’s apocalyptic visions of blood, fire, and theocracy. The associate editor for the Sunday School Board of the Southern Baptist Convention, C. Aubrey Hearn, wrote to Justice Black to express his belief that the ruling violated the principle of church-state separation and that he “greatly deplored[d]” it.<sup>79</sup> Charles R. Bell Jr., pastor of the First Baptist Church of Madison, Wisconsin, and chair of the Wisconsin Committee for Religious Liberty, wrote a commendation letter to Justice Jackson for his dissent both on behalf of the committee and “as a Baptist and one who believes deeply in the principles you have so clearly outlined.”<sup>80</sup> His letter to Justice Black contained a more ominous tone reminiscent of Ward’s article, respectfully expressing deep concern about the aftermath of the decision. He described the situation in Wisconsin as one in which the Catholic hierarchy broke the law with impunity, would “crush out freedom when given the chance,” and was “working feverishly to blot out liberalism.” The necessary solution to Bell was a constitutional amendment “which will state specifically and finally the Protestant position which is complete separation of church and state!”<sup>81</sup> J. M. Dawson, executive secretary of the Baptist Joint Committee on Public Affairs authored a statement signed also by Louie D. Newton, president of the Southern Baptist Convention, and Stanley I. Stuber, director of public relations for the Northern Baptist Convention. The statement accused the Supreme Court of “turning back the hands of the clock.” In response, it resolved that Baptists would continue the fight for religious freedom through advocating for the separation of church and state—including through remaining staunchly opposed to governmental financial support of private or religious schools “now, and at any time in the future.”<sup>82</sup> In a separate statement, Newton, who was in the courtroom when Justice Black read the court’s ruling, released a statement on that day calling the decision part of a “war on the time honored [sic] control of religious liberty” and worrying that it would be used “as a hammer to further beat down the wall that separates church and state in the land.”<sup>83</sup> In a February 14 letter to Justice Jackson, Newton also commended Jackson for his dissent and wrote regarding his belief that “this decision is far more than a local matter.” In addition to

<sup>76</sup> Cecil S. Ward, “It’s Time to Be Alarmed,” *Norwood Baptist Companion* (April–June 1947), 2–3, box 285, folder 4, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>77</sup> Ward, “It’s Time to Be Alarmed.”

<sup>78</sup> Willard Griffin Foote, letter to Hugo Black, May 20, 1947, box 285, folder 5, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>79</sup> C. Aubrey Hearn, letter to Hugo Black, February 14, 1947, box 285, folder 4, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>80</sup> Charles R. Bell Jr., letter to Robert H. Jackson, February 20, 1947, box 137, folder 3, Robert H. Jackson Papers, Manuscript Division, Library of Congress; Arthur M. Vinje, “First Baptist Church, Madison,” photograph, November 29, 1949, image ID 63019, Vinje, Arthur M.: Photographs and Negatives Collection, Wisconsin Historical Society, accessed October 26, 2022, <https://wisconsinhistory.org/Records/Image/IM63019>.

<sup>81</sup> Charles R. Bell Jr., letter to Hugo Black, February 13, 1947, box 285, folder 5, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>82</sup> Joseph Martin Dawson, “United States Supreme Court Decision Deplored,” *Christian Index* 127, no. 10 (1947): 5, box 285, folder 4, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>83</sup> Gladstone Williams, “Catholic Ruling Draws Newton’s Ire,” *Atlanta Constitution*, February 12, 1947, 5.

religious liberty, Newton wrote that the ruling presented a challenge to “all the other freedoms.”<sup>84</sup>

Beyond their letters and official statements, Dawson and Newton expressed their displeasure and concern through activism. In the wake of the *Everson* decision, and at least partially due to its result, both men helped form and served as founding officers in the verbosely named organization Protestants and Other Americans United for the Separation of Church and State (later renamed Americans United for Separation of Church and State). Though the organization aimed to unite Jews, secular Americans, and the various Protestant traditions against the perceived threat of the Roman Catholic hierarchy, the distinctively Baptist influence on the beginnings of the organization is clear from the fact that between Dawson, Newton, and Edwin McNeill Poteat Jr., three of the six founders and first officers of Protestants and Other Americans United for the Separation of Church and State were ordained Baptist ministers.<sup>85</sup> From its first meeting in October 1947 and the release of its founding manifesto in January 1948, the organization began lobbying, litigating, and raising awareness against perceived violations of the proper, strict separation of church and state demanded by the First Amendment. In its earliest years, this meant that the Catholic hierarchy was one of its primary targets. In later decades, the group’s universally secular vision would increasingly clash not only with Catholics, but also with those Baptists (often theologically and politically conservative) who came to advocate for an accommodationist reading of the Establishment Clause as American culture more thoroughly secularized in the latter half of the twentieth century. In fact, Dawson, who was more theologically liberal and even in 1947 possessed a more secular vision for the country than many of his fellow Southern Baptists, foresaw this potentiality and helped to found Protestants and Other Americans United for the Separation of Church and State in part to create a more reliably long-term advocate for strict separationism and its far-reaching implications than the Baptist Joint Committee on Public Affairs and its Southern Baptist members.<sup>86</sup>

In addition to opposition on doctrinal grounds, Baptists also opposed the Supreme Court’s decision from a desire to maintain their ability to worship unmolested, and most of their expressions of deep concern contained an appeal to church history, specifically to times far less favorable to Baptists. These doctrinal and historical lines of reasoning, rather than being separate, were intertwined with connections going back to the beginnings of American Baptist life. Despite Roger Williams’s primary concern being the spiritual corruption of the church when he discussed his desire for a “wall of separation,” his proposal proved to be one of the only arrangements that would prevent persecution of Baptists.<sup>87</sup> Everywhere they existed for the first century of their history, Baptists were a minority sect in the Christian world, which, in both European and American lands with established churches, usually left Baptists in a precarious position, leading to men like Helwys being imprisoned and others like Williams being banished. Under these conditions, the wall of

<sup>84</sup> Louie D. Newton, letter to Robert H. Jackson, February 14, 1947, box 137, folder 3, Robert H. Jackson Papers, Manuscript Division, Library of Congress.

<sup>85</sup> “New Body Demands Church Separation,” *New York Times*, January 12, 1948, 1; James E. Wood Jr., “The Legacy of Joseph Martin Dawson (1879–1973),” *Journal of Church and State* 15, no. 3 (1973): 363–65; Memory F. Michell, s.v. “Poteat, Edwin McNeill, Jr.,” in *Dictionary of North Carolina Biography*, ed. William S. Powell (Chapel Hill: University of North Carolina Press, 1994), 129–30; Jarrett Burch, s.v. “Louie D. Newton,” in *New Georgia Encyclopedia*, October 5, 2007 (last modified August 10, 2013), <https://www.georgiaencyclopedia.org/articles/arts-culture/louie-d-newton-1892-1986/>. Though all three men previously had been ordained and served as pastors, only Newton was pastor of a church when the Protestants and Other Americans United for the Separation of Church and State was founded Dawson was working as the full-time executive director of the Baptist Joint Committee on Public Affairs, and Poteat was the president of Colgate-Rochester Divinity School.

<sup>86</sup> Hamburger, *Separation of Church and State*, 470–72.

<sup>87</sup> Williams, *The Bloudy Tenent, of Persecution*, 3.

separation not conformed to the Baptist belief of soul freedom, but it was also the governmental *modus operandi* likeliest to allow Baptists to worship without fear and evangelize without harassment.

For those who believe in the influences of divine revelation and the existence of eternal moral law in human affairs, it is not necessarily a denial of the roles that both played in the development of Baptist doctrine to say that practical concerns or even a pragmatic sense of self-preservation also played a role in this development. Baptists did not view civil government as an irredeemably corrupt or wicked institution. Expanding on the confessions of Baptists in England, the 1742 *Philadelphia Confession of Faith* declared that civil governments were under the supervision of God and had the divinely ordained task of “defence and encouragement of them that do good.” Christians were morally able to serve as civil authorities as long as they sought to “maintain justice and peace.”<sup>88</sup> Therefore, whatever civil policies Baptists believed would fulfill the government’s role of preserving the rights of its citizens both to freely choose whether or not they would believe in the Gospel—that is, soul freedom—and to live by the commands of God would be the proper charge by God to governments. To view the issue from another angle, given that Baptists viewed the commands of God as completely just, the following of which could only increase justice and peace, whatever God commanded of governments would have the inevitable result of being more practically beneficial for Baptists to live and preach their religion. The moral and the practically beneficial, then, when viewing true Christianity and biblical churches as a whole, would complement each other and work toward the same end.

### Baptist’s Common Ground with Justice Black

Despite their vehement opposition to the *Everson* decision, Baptists agreed with Black’s fundamental reasoning in the majority decision, even as this agreement was overshadowed by Black’s application of that reasoning to the facts of the New Jersey bus subsidy policy. Black himself observed that, for those Catholics celebrating the outcome, their victory was Pyrrhic.<sup>89</sup> This alignment probably stems in part from Black’s upbringing and early adult life as a Baptist in Alabama, though his personal religious devotion and belief should not be overstated. As an adult, he joined and taught Sunday school at a Baptist church in Birmingham, and he even briefly served on the Southern Baptist Convention’s Committee on Public Relations (the antecedent organization of the Baptist Joint Committee on Public Affairs) in the 1930s, but he desired a church membership that, according to him, did not require him to publicly “confess a religious faith greater than I had.” He also often skipped the church’s services, and the parts of the Bible he taught were intentionally selective.<sup>90</sup> After moving to Washington, DC, Black adopted a semi-non-institutionally religious, semi-Unitarian position, but he stated in an interview the year before his death in 1971 that his Baptist upbringing served as the largest influence on his legal thought throughout his life. Jay Sekulow argues that this influence held true for Black’s views on the separation of church and state.<sup>91</sup>

The nature of Black’s reasoning supports Sekulow’s conclusion. Several lines from Black’s opinion in *Everson* resemble lines from the 1925 *Baptist Faith and Message*: “The state owes to the church protection and full freedom in the pursuit of its spiritual ends.” Black writes,

<sup>88</sup> *The First London Baptist Confession of Faith*, section L; *Philadelphia Confession of Faith*, 1742, chapter 25, Alliance of Confessing Evangelicals, <https://www.alliancenet.org/the-philadelphia-confession-of-faith>.

<sup>89</sup> Hamburger, *Separation of Church and State*, 462.

<sup>90</sup> Bertucio, “The Political Theology of Justice Hugo Black,” 83–86.

<sup>91</sup> Bertucio, 83–84; Jay Alan Sekulow, *Witnessing Their Faith: Religious Influence on Supreme Court Justices and Their Opinions* (New York: Rowman & Littlefield, 2006), 214–26, 230–33.

“Neither [a state nor the federal government] can force nor influence a person to go to or to remain away from church against his will or force him to profess as belief or disbelief in any religion.” The *Baptist Faith and Message* states, “In providing for such freedom no ecclesiastical group or denomination should be favored by the state more than others,” and, “[t]he church should not resort to the civil power to carry on its work.”<sup>92</sup> Black writes, “Neither [a state nor the federal government] can pass laws which aid one religion, aid all religions, or prefer one religion over another.” The *Baptist Faith and Message* states, “The gospel of Christ contemplates spiritual means alone for the pursuit of its ends. The state has no right to impose penalties for religious opinions of any kind.” Black writes, “No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance.” Finally, the *Baptist Faith and Message* states, “The state has no right to impose taxes for the support of any form of religion.” Black writes, “No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion.”<sup>93</sup>

Black also quotes James Madison and Thomas Jefferson, both of whose ideas surrounding religious liberty and disestablishment in the United States drew influence from early American Baptists.<sup>94</sup> The phrase and part of the legal concept of a “wall of separation” that Black established into modern constitutional law in *Everson* comes from a letter that Jefferson sent to the Danbury Baptist Association in 1802.<sup>95</sup> In the letter, Jefferson expresses his agreement with his readers that “religion is a matter which lies solely between Man & his God” and that a person “owes account to none other for his faith or his worship.” Therefore, a good government must respect the “rights of conscience” by “building a wall of separation between Church & State.”<sup>96</sup> Jefferson, by using the phrase in writing to Baptists, was himself referencing Roger Williams’s earlier use of the same phrase, even though Jefferson’s and Williams’s meanings behind their uses of the phrase were, in many ways, quite different.<sup>97</sup>

This common political theological foundation that Black and Baptists shared did not lead to a consensus between the two in the proper outcome of the *Everson* case. This changed, however, in future Establishment Clause cases for which Black wrote the majority opinion and led some Baptists to recognize their common ground with the justice. In its next term, the year after deciding *Everson*, the Supreme Court decided *McCullum v. Board of Education*, for which Black also wrote the majority opinion and used substantively the same legal reasoning.

In the wake of this ruling, J. M. Dawson wrote to Black with a much more supportive tone than he had in his statement on Black’s ruling one year prior, expressing his “pleasure” in the *McCullum* decision. The more favorable outcome seemed to allow Dawson to rethink his and other Baptists’ assessment of Black’s legal reasoning in *Everson*. He wrote to Black, “More and more we recognize the superb character of your historic decision in the New Jersey bus case, and while we lamented the specific application following the main body of that decision ... we feel that the interpretation given of the First Amendment in that decision will remain one of the great historic documents.”<sup>98</sup> In his 1964 autobiography, Dawson wrote regarding the reasoning and the results of the two decisions, “We had lost a battle, but won

<sup>92</sup> Southern Baptist Convention, *The Baptist Faith and Message*, section 28 (“Religious Liberty”).

<sup>93</sup> *Everson*, 330 U.S. at 15–16.

<sup>94</sup> Bertucio, “The Political Theology of Justice Hugo Black,” 92.

<sup>95</sup> *Everson*, 330 U.S. at 16. This was not the first time the Supreme Court had referenced Jefferson’s letter in one of its rulings. Black refers to the court’s opinion in *Reynolds v. United States*, 98 U.S. 145 (1878), in an effort to make his particular Establishment Clause framework seem like it had some semblance of legal precedent.

<sup>96</sup> Thomas Jefferson, “Jefferson’s Letter to the Danbury Baptists,” January 1, 1802, Library of Congress, <https://www.loc.gov/loc/lcib/9806/danpre.html>.

<sup>97</sup> See Howe, *The Garden and the Wilderness*, 5–7.

<sup>98</sup> Joseph Martin Dawson, Letter to Hugo Black, March 19, 1948, box 296, folder 1, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

the war!”<sup>99</sup> Expressing similar support, W. T. C. Briggs, who stated that he was a Baptist minister in Greenville, North Carolina, wrote that Black’s opinion and reasoning in *McCullum* were “splendid” and lamented that it took an atheist (Vashti McCollum), rather than “those who call themselves Christians, and have so much to say about separation of church and state,” to bring the issue before the court and effect the “much needed decision.”<sup>100</sup>

The fundamental agreement that Black had with traditional Baptist views of church-state relations resulted in not only a favorable legal precedent in *Everson* and an isolated victory in *McCullum*, but also the beginning of the Baptist triumph on the national level in Establishment Clause jurisprudence. With Justice Black introducing, then firmly reestablishing, the conception of a wall of separation between church and state into modern constitutional law, the Supreme Court elevated to binding legal precedent the metaphor first used three centuries prior by a Baptist exile from a Puritan colony, reused in a friendly letter to Baptists by a deist founding father who drew his notions of freedom of conscience in part from Baptists, and reused again by a justice for whom Baptist influence ran far deeper than his Baptist belief and lasted far longer than his Baptist affiliation. This influence persuaded the Supreme Court to take the side of the religious (or irreligious) dissenter, both in the classroom and in the public more broadly.<sup>101</sup> For the next generation of case law, the traditional Baptist viewpoint of strict separationism remained the default principle by which the court decided church-state cases. The most landmark of these cases were *Engel v. Vitale* (1962), for which Justice Black again wrote the majority opinion, and *Abington School District v. Schempp* (1963).<sup>102</sup> Even with the Supreme Court’s shift in the 1980s and beyond to an arguably more *ad hoc* series of church-state decisions, the later rulings did not question the basic separationist principle set forth in the landmark cases from the 1940s through the 1960s.

### A Baptist Shift

Though Baptists constituted one of the largest American Protestant denominations in the mid-twentieth century,<sup>103</sup> their history as dissenters from all forms of state churches, Catholic and Protestant alike, continued to influence their identity through an instinctive disestablishmentarianism and an alarmed suspicion of any policy that even hinted of church-state mingling. The court’s opinions supporting dissenters on matters of faith, then, met with hearty Baptist approval, even though they saw the actual judgment in *Everson* as contradicting that support and directly threatening such dissenters. For a time, this meant that both some of the most consciously irreligious and some of the most devout Baptists fought side by side in the fight against the specter of an established state church, especially a Catholic one. But this common cause did not last forever, and by the 1980s, many Baptists—especially

<sup>99</sup> Joseph Martin Dawson, *A Thousand Months to Remember, An Autobiography* (Waco: Baylor University Press, 1964), 194, quoted in Hamburger, *Separation of Church and State*, 462.

<sup>100</sup> W. T. C. Briggs, Letter to Hugo Black, March 14, 1948, box 296, folder 1, Hugo Lafayette Black Papers, Manuscript Division, Library of Congress.

<sup>101</sup> This is not to deny the influence of other religious minorities or secular religious freedom activists on the court in this shift. For example, in the case *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), the Jehovah’s Witnesses won a case establishing that a school could not force students to say the Pledge of Allegiance, which the Jehovah’s Witnesses refused to say for religious reasons. Justice Jackson, who wrote the majority opinion, stated, in an ideological precursor to Black’s opinion in *Everson*, “If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in matters of politics, nationalism, religion, or other matters of opinion or force citizens to confess by word their faith therein.” *Barnette*, 319 U.S. at 642.

<sup>102</sup> *Engel v. Vitale*, 370 U.S. 421 (1962); *Abington School District v. Schempp*, 374 U.S. 203 (1963).

<sup>103</sup> Bill J. Leonard, *Baptists in America* (New York: Columbia University Press, 2005), 43–44.

Southern Baptists—were actively opposing those advocates for further secularization of public life, and in a reversal of earlier praxis, many even sought to bring more religious influence into government.

This shift resulted at least in part from the Court's rulings in *Engel* and *Schempp*, which many Baptists opposed despite the general support for the rulings from Baptist leadership. However, though these cases marked the turning point for some evangelicals and caused them to end their support for strict separationism after realizing its full implications, Southern Baptist leadership in particular continued its support for separationism. The Southern Baptist Convention even opposed proposed amendments to the constitution in the mid-1960s that would have permitted state-sponsored, voluntary prayer and Bible reading in public schools.<sup>104</sup> Nevertheless, throughout the late 1960s and the 1970s, with the growth of religious pluralism and of cultural movements that conservative Baptists saw as causing the country to increasingly reject God and Christian morals, they also underwent the same reconsideration of strict separationism that Philip Hamburger describes of a smaller group of traditional Protestants in the wake of *McCullum* a generation earlier: "They had sought their familiar Protestant separation and now suddenly found themselves confronted with a secular version, which threatened the nonsectarian religiosity of America's public institutions."<sup>105</sup> For the conservative Baptists who abandoned strict separationism, like Jerry Falwell Sr., separation of church and state had never meant the separation of Christianity from either government or public life.<sup>106</sup> When the United States had been more thoroughly culturally Protestant, religious conservatives espousing strict separationism could to some extent assume that a certain level of Christian morality and acknowledgment of God would still be present in public institutions, albeit in a generic form.

However, growing numbers of non-Christian and liberal Christian Americans were challenging even these more generic nods to a pan-Protestant or pan-Christian underpinning, using the same Establishment Clause arguments initially used to impose a nonsectarian Protestant religiosity in the public sphere. In this new and less favorable politico-cultural landscape, conservative Baptists increasingly adopted a position that embraced either accommodationism or open favoritism toward Christianity in the public sphere, and they focused their legal battles on defending an expansive reading of the Free Exercise Clause rather than of the Establishment Clause.

## Conclusion

Prior to this shift, however, Baptist advocacy of strict separationism in America reflected the beliefs of Baptists from the very beginning of the tradition. But rather than merely a pragmatic plan for survival or a detached facet of their beliefs, their strict separationism flowed directly from their theology of the proper role of the state in spiritual affairs and the church in political affairs, which in turn flowed directly from their ecclesiology on the church's relationship to salvation. The experiences of early Baptists and the context of the history of other surrounding Christian traditions did help to form their ecclesiology, but the persecution of what Baptists held to be true Christianity by heretical state churches also reinforced the association between established religion and the corruption of truth, in addition to the destruction of the soul's ability freely to choose that truth. An observer, however, should not take Baptist history as simplistically dictating or determining their ecclesiology, as if their convictions were only a result of pragmatism. Indeed, the most

<sup>104</sup> Green, *Separating Church and State*, 173–74.

<sup>105</sup> Hamburger, *Separation of Church and State*, 477.

<sup>106</sup> Green, *Separating Church and State*, 174.

pragmatic beliefs for early Baptists to adopt would have been those of whatever Christian tradition the established church in their respective lands followed.

Rather, Baptists founded their beliefs, including their ecclesiology, on their interpretation, based on firsthand reading and study, of how the Bible instructed them to live in relation to God and others. They saw salvation as requiring a full and free exercise of personal faith in Jesus Christ and repentance of sin and, while viewing the church and its ordinances like baptism as important steps of uncoerced obedience, saw salvation as remaining separate from the actions of any ecclesial institution. Therefore, since baptism and church membership did not function as means of grace and would do nothing in themselves, a government requiring or strongly encouraging participation in such elements of church life, according to a particular church's beliefs, would not only provide no spiritual benefit for its citizens, but it would actively do spiritual harm by destroying the purely voluntary nature of such an act of obedience. It could also damage or destroy the ability to experience a free, and therefore genuine, interior conversion. A government, therefore, had the utmost priority of preserving freedom of conscience and religion, and experience informed Baptists that the only way this could realistically occur was by the state entirely staying out of the affairs of churches. Much to the chagrin of later Baptists like Mohler, though likely to the relief of mid-century Baptists like Phillips, the Baptist-influenced Justice Black agreed and devoted several of his most influential opinions to enshrining this separationist vision into First Amendment case law for decades to follow.

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