

1-1-2013

Public Education In A 'Religious State': South Carolina Responds to Engel V. Vitale (1962), Abington V. Schempp (1963), and Murray V. Curlett (1963)

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PUBLIC EDUCATION IN A “RELIGIOUS STATE”: SOUTH CAROLINA
RESPONDS TO *ENGEL V. VITALE* (1962), *ABINGTON V. SCHEMPP* (1963), AND
MURRAY V. CURLETT (1963)

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Submitted in Partial Fulfillment of the Requirements

For the Degree of Doctor of Philosophy in

Foundations of Education

College of Education

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2013

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DEDICATION

When I began this journey six years ago, it was hard to believe that I would ever reach the end. Throughout this entire process two people have always supported my ambition, and without their guidance and love, I would not be where I am today. This dissertation is respectfully dedicated to my parents, Hilarie and Burch Sweeney.

ACKNOWLEDGEMENTS

This dissertation would not be possible without the assistance of numerous people. Any errors or omissions, however, are mine alone. With that said, I would first like to express sincere thanks to my committee members, Drs. Kara Brown, Michelle Bryan, and Doyle Stevick for their guidance and patience. In a similar vein, this work would not be possible without the assistance of my advisor, Dr. James Carper. Thank you for showing me the value of historical research and for making me a better writer. Similarly, I would express my sincere appreciation to Val Morton, Janet Hawkins, and Elna Moses in the College of Education.

This work was only made possible through the assistance of numerous libraries and librarians throughout the state of South Carolina. At the University of South Carolina, I am deeply appreciative of the staff of the South Carolina Political Collections for their friendliness and willingness to allow me to comb through the numerous files of South Carolina's politicians. I would like to thank the staff of the South Caroliniana Library and especially Henry Fulmer for his guidance. While at Clemson University, James Cross and Michel Kohl of the Special Collections Department were indispensable in helping me locate important sources. Others who played an important role in my research were the staff of the South Carolina Department of Archives and History, Brian Fahey of the Catholic Diocese in Charleston, Dale Rosengarten and John White of the College of Charleston, and Stephanie Solomon of Columbia International University.

Finally, I wish to extend my heartfelt thanks to my family and friends for their constant support and love. To my grandmothers, Helen Sweeney and Marge Muller, and my great aunt, Nell Murphy, thank you for encouraging me to dream big. To my Ridge View High School colleagues Derrill Felkel and Marty Martin, thank you for your advice and inspiration. To my old friends in Virginia and my new friends in South Carolina, I appreciate all of your loving words of encouragement. Lastly, to Matt McLees thank you for supporting my aspirations and, most importantly, for loving me.

ABSTRACT

Since its inception in the mid-1800s, public education has been one of the most contested arenas in American life. Among the battles fought in this domain, none have been more heated than the appropriate role of religion in the public schools. From the 1844 Philadelphia Bible Riots, to the 1925 debate over Darwinism and Creationism, to recent skirmishes regarding the Pledge of Allegiance, these and other disputes have been the subject of considerable scholarship. In South Carolina, however, one controversy regarding the intersection of religion and public education has received little attention, namely the trio of harshly criticized Supreme Court decisions between 1962 and 1963. At the height of the Cold War and in the midst of racial integration, the High Court in *Engel v. Vitale* (1962) ruled that the recitation of state-sanctioned, non-denominational prayer in public schools violated the First Amendment's no-establishment clause. In response, the majority of South Carolinians, who expressed an opinion, decried the ruling as advancing a Communist agenda and permitting the federal government to intrude into state matters. This indignation only intensified after the Supreme Court held in *Abington v. Schempp* (1963) and *Murray v. Curlett* (1963) that devotional Bible reading and the recitation of the Lord's Prayer in government schools ran afoul of the First Amendment's Establishment Clause. Once again, South Carolinians were very vocal in expressing their fear that the removal of longstanding religious exercises from the public school would allow atheism to fester which, in turn, would promote Communism. Despite the Palmetto State's fondness for religion, surprisingly some citizens and religious denominations,

especially Jewish leaders, applauded the decisions as a way of upholding Jefferson’s “wall of separation” principle. Those who supported the decisions often understood that South Carolina, which by the twentieth century was more pluralistic than ever before, had no authority to assume a religion or mandate religious practices in any public institution. Despite the Supreme Court’s edicts, however, religion continued to be a very public matter in the state of South Carolina and will therefore remain a hotly contested topic in the structuring of public institutions, such as the public school.

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CHAPTER I

AN OVERVIEW OF THE RELATIONSHIP BETWEEN PUBLIC EDUCATION AND RELIGION IN THE NATIONAL CONTEXT

“The history of man is inseparable from the history of religion.” (370 U.S. 421, 5)
Mr. Justice Hugo Black, for the majority
Engel v. Vitale (1962)

Public education, since its inception in the mid-1800s, has been one of the most contested arenas in American life. Among the battles fought in this domain none have been more heated than the appropriate role of religion in public schools. For example, in 1844 Philadelphians rioted over the use of the Bible in the public schools. In the early twentieth century, debates over Darwinism and Creationism flared in the schools. More recently, courts have been called to settle conflicts regarding the Pledge of Allegiance with its reference to “Under God” and disagreements over religious expression in student clothing. These and other disputes have been the subject of considerable scholarship. Yet, in South Carolina one controversy regarding the intersection of religion and education has received little attention, namely the trio of harshly criticized Supreme Court cases between 1962 and 1963, in which state-sponsored prayer, devotional Bible reading, and recitation of the Lord’s Prayer were removed from public schools. This lack of scholarly attention creates a serious gap during a time in which the federal government and states were fighting battles over other troublesome issues such as Communism and racial segregation. Using extensive primary and secondary sources, this study will examine the social, denominational, and political reactions of South Carolinians to the Supreme

Court's rulings in *Engel v. Vitale* (1962), *Abington School District v. Schempp* (1963), and *Murray v. Curlett* (1963). In addition to examining the High Court's decisions, this dissertation will explore the role of religion in public education, pre-*Engel* and post-*Abington*, in South Carolina and the broader national context.

This introductory chapter addresses two topics that provide context for the study. The first part of this chapter will use a chronological approach to trace the role of religion in education, beginning in the seventeenth century and ending in the mid-twentieth century. The second part of this chapter will explore the various twentieth-century Supreme Court cases that attempted to define the public school's relationship to religion.

Religion and Education from the 1600s to the Early 1900s

America's close, but often ambivalent relationship with religion can be traced back to the European colonization of North America in the seventeenth century. In abandoning their native lands, these European settlers sought religious liberty. Not only did the new continent provide a safe haven for religious diversity, but the vast, "unconverted" land also provided the European colonists with a new and expanding audience to proselytize (Fraser 1999, 9). As British, French, and Spanish colonists traveled across the Atlantic Ocean to the New World they brought with them their traditional rule of law, which was grounded in the doctrines of the Church of England. This steadfast dependence on religion, as a source of law, is exemplified in Jamestown, where during the initial meeting of the Virginia House of Burgesses, in 1619, all ministers were ordered to conduct services and church functions "...according to the ecclesiastical laws and orders of the Church of England" (Fraser 1999, 11). Therefore, with the establishment of the Anglican Church in the New World, religion became a tool

to promote law and order, as well as a foundational element in the establishment of an educational system.

As the seventeenth century progressed, more colonies were established along the eastern coast of North America. British discontent over the results of the Protestant Reformation and the availability of land in a religiously-neutral setting led some religious groups to seek shelter in the New World. Among the most famous of these settlements were the separatist Pilgrims of Plymouth Rock and the Puritans of Massachusetts Bay (Urban and Wagoner 2009, 34-38). Both the Pilgrim and Puritan cultures stressed Bible reading as a method to promote literacy among the colonists. This use of the Bible as a tool of instruction highlighted the growing relationship between religion and education in the New World. This partnership was further reflected in the passage of two Massachusetts laws. The first law passed in 1642 "...mandated that town officials see to it that parents and masters instructed children in reading, civil law, and Christian doctrines" (Carper and Hunt 2009, 1). Those parents, or masters, who failed to comply with the 1642 act could be fined and the children could be removed from the home. The law emphasized the importance of occupational training and literacy skills, as well as a community approach to educating the child. This Massachusetts statute was also embraced in other colonies throughout the northeast, for instance, Connecticut passed the same law in 1650, while New York and Pennsylvania passed similar laws in 1665 and 1683 (Urban and Wagoner 2009, 43). Five years after the enactment of the 1642 law, Massachusetts, in 1647, passed a more stringent statute to encourage the teaching of Christian doctrines. The so-called "Old Deluder Law" mandated the construction of petty

and grammar schools where children would receive basic literacy skills and moral training in order to avoid the deceptions of Satan (Urban and Wagoner 2009, 45).

Looking beyond “Massachusetts myopia,” the educational arrangements in the Southern and Middle colonies were less organized in nature, nevertheless, the relationship between religion and schooling remained close. The South’s dependence on agriculture led to sporadic settlement patterns, and worked against a firm structure of schooling. Therefore, education was a matter left to the family. This individual approach to education was reinforced by Governor William Berkley of Virginia, who in 1671 asserted that education included “...every man according to his own ability in instructing his children” (Urban and Wagoner 2009, 25). Berkley’s definition of education allowed for various educational arrangements that were dependent on the family’s economic status. For instance, children of the wealthy often received the best form of education, which included private tutors or parental home schooling. While the less fortunate children often attended “parson’s schools” which used local ministers to provide both literary and religious training (Urban and Wagoner 2009, 26). Differing from the South, the Middle colonies were composed of various religious groups, such as the Quakers in Pennsylvania and the Baptists in Rhode Island, and this plurality led to different methods of educational instruction throughout the region (Stokes and Pfeffer 1964, 6). Despite the educational differences found in the Northern, Middle, and Southern colonies, missionary groups developed schools throughout all three regions to serve the needs of the poor and indigent. Most notable among the sponsors of “charity schools” was the Society for the Propagation of the Gospel in Foreign Parts (SPG), which fought to combat atheism and infidelity (Urban and Wagoner 2009, 27). Despite the regional differences in educational

arrangements, the teaching materials of the time consistently reflected the close relationship between religion and schooling.

The most widely used teaching material of the time was the King James Bible, but other prominent sources of literature included John Foxe's *Book of Martyrs* (1563) and John Bunyan's *The Pilgrim's Progress* (1678) both of which promoted Christianity and literacy skills. Likewise, hornbooks were also utilized to present the alphabet, Apostles' Creed, and the Lord's Prayer. The most popular teaching tool of the time, other than the Bible, was *The New England Primer*, which infused the teaching of the alphabet with instruction in morality and Protestant Christian doctrines (Carper and Hunt 2009, 1-3). For example, when learning the letter A, students read, "In Adam's Fall We Sinned all," likewise when learning the letter H, students memorized, "My Book and Heart Shall never part," and when studying the letter P, students recited, "Peter denies His Lord and cries" (Carper 2007, 60-61). Overall, by the late seventeenth century it was evident that religion and education were inextricably intertwined.

Following the War for Independence, educational arrangements changed little. Leaders in the newly formed states, like Thomas Jefferson in Virginia and Benjamin Rush in Pennsylvania, desired a way to promote the health of the republic by educating Americans at home, and not abroad. Both advocated the creation of domestic schools, however, they differed in defining how, or even if, religion should be integrated into the school curriculum. Believing that a man's love of country should equal his love of God, Rush advocated the use of the Bible as the school textbook. Jefferson, on the other hand, was more wary of fusing education with "sectarian religion" (Urban and Wagoner 2009, 82-88). The conflict between Rush and Jefferson over the role of religion in education did

not garner much attention in the eighteenth century, yet Jefferson's hesitancy in creating an educational system that advanced religion, presaged debates regarding the place of religion in public schools.

In the years following the Revolution, America continued to expand its borders, driven in part by the doctrine of Manifest Destiny. As the country pushed west, Congress issued the Northwest Ordinance of 1787 as a way to govern the new land. Under Article Three of the Ordinance, Congress asserted the importance of religion and education stating: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged" (Continental Congress 1787, 3). Knowing the importance of an educated citizenry, former schoolmaster, and founder of Amherst College, Noah Webster used his own publications to promote American history and a unified American language (Urban and Wagoner 2009, 90-1). Most prominent among Webster's publications was his 1783 "Blue-Backed Speller" which included theological content to help students understand concepts such as mercy, humility, and charity (Carper and Hunt 2009, 3). As America continued to expand its boundaries, teaching resources and Congressional edicts highlighted the close relationship between religion and education.

The once familiar partnership between religion and education began to unravel in the mid-nineteenth century as America encountered a rapid expansion in immigration, urbanization, and industrialization. Composed predominantly of Roman Catholics, new immigrant groups settled into Protestant-dominated, northern cities (Carper and Hunt 2009, 4). These new immigrants were not welcomed and were often viewed as a threat to the dominant Protestant faith. Disputes between "native" Protestant Americans and

Catholic immigrants often escalated into violence. For instance, in 1844 Catholics and Protestants in Philadelphia burned churches and rioted in the streets over which Bible to use in the public schools (Hamburger 2002, 217-19). As American society became increasingly pluralistic, educational reformers such as Horace Mann preached the power of tax-supported, universal common schooling to address problems associated with the changing social milieu. These schools utilized a common curriculum to promote the values of Protestantism, republicanism, and capitalism to create an intellectually astute and morally unified citizenry (Carper 2001, 49). The primary instructional tool in Mann's common school was the *McGuffey Reader*, which sold over 120 million copies from its creation in 1836 through 1960 (Urban and Wagoner 2009, 113). Reared in a religiously strict Protestant family, William Holmes McGuffey used his *Readers* to reinforce Protestant values and to combat Roman Catholicism. In addition, the *Readers* encouraged American assimilation by emphasizing the middle-class values of hard work and nationalism (Carper and Hunt 2009, 298). Although Mann opposed teaching what he called "sectarian doctrines," he approved of Bible reading, thus providing a religious basis for moral instruction that complemented the *Readers'* emphasis on biblically-based moral education.

Though most Protestants supported common schooling, many Catholics and some Lutherans and Calvinists objected to Mann's educational vision. Catholics often decried the use of the Protestant Bible, while some Lutherans and Calvinists believed that Mann devalued the Protestant doctrine and promoted Unitarianism in the common school (Cremin 1951, 193). In his historic work, *The American Common School*, Lawrence Cremin explains, "The rationale behind the introduction of Bible reading lay in the

contention that the Bible was given by God, while sectarianism was made by man; and thus only in the Bible itself did one find the true moral principles which must be subsumed by all sectarian philosophies” (1951, 70). Catholics’ disapproval stemmed from the type of Bible that was read in Mann’s common school; they preferred the Douay Bible, as opposed to the King James Bible. The type of Bible, coupled with reading from the Bible without comment, placed many Catholics and Lutherans in a predicament: send their children to a free public school that promoted what some historians call “pan Protestantism,” or pay tuition for their children to attend a parochial school that instilled specific doctrines. The dilemma faced by many Catholics was best summarized by Bishop John Hughes who said, “Catholics...were absolutely unable to allow their children to attend without violation of their rights of conscience” (Cremin 1951, 167). This growing conflict between Protestants and Catholics over the use of instructional texts and the failure of Catholics and Lutherans to obtain public tax dollars to fund their own religious schools, illustrates the difficulties of grappling with the role of religion in public schools in an increasingly pluralistic society.

In the years following the genesis of the common school and the Civil War, religious pluralism increased in American society, leading to more debates over the proper role of religion in public schools. For example, in a move to address the decreasing parochial school attendance in Minnesota, Archbishop John Ireland called for the cities of Faribault and Stillwater to offer a free public education to Catholic students. Implemented in 1890, the Faribault-Stillwater Plan created a cooperative educational arrangement between public schools and Catholics that allowed Catholic students to be educated, free of charge, in parish buildings. Although supported by Pope Leo XIII, the

Faribault-Stillwater Plan led to discord between conservative and liberal Catholics who disagreed over the Plan's ban on the display of religious symbols and materials during the school day. Tension among Catholics and the appointment of nuns as school teachers in 1892 led to the abolition of the cooperative agreement in the towns of Faribault and Stillwater (Carper and Hunt 2009, 199-200). Although the Faribault-Stillwater Plan was short in duration, a more successful cooperative educational arrangement between Catholics and the public schools was established in Poughkeepsie, New York, between 1873-1898. Together both the Faribault-Stillwater Plan and Poughkeepsie Plan illustrate the difficulties of maintaining parochial schools and meeting the religious needs of the diverse citizenry (Carper and Hunt 2009, 348-50).

The growing religious pluralism of the Progressive Era also provided a new obstacle to the dissemination of religious instruction in public schools in the early twentieth century. Although southern states maintained Bible instruction, which will be discussed later, schools elsewhere opted for alternatives to direct religious instruction. For instance, in 1914 William Wirt, the superintendent of schools in Gary, Indiana, and creator of the "Gary Plan," implemented released-time religious instruction programs to address the diverse religious beliefs of the young immigrant population (Carper and Hunt 2009, 20). This program allowed children, with parental consent, to be released to religious ministers within the city to receive training in religious worship and doctrine (Dierenfield 1962, 14). Heavily supported by the Protestant churches in Gary, Wirt and church leaders hoped the program would help assimilate the immigrant population through moral instruction (Cohen and Mohl 1979, 94). Wirt's idea of released time spread throughout Indiana, and at its peak included over three thousand students,

nevertheless the program had little influence over recent immigrants, who preferred to support their own Sunday and parochial schools (Cohen and Mohl 1979, 94-95).

World War I led to the demise of the Progressive Era and to what President Warren G. Harding called “a return to normalcy.” As Americans adapted to life after the Great War, society experienced a rise of conservatism which was most notably reflected in the Protestant Fundamentalist movement. Fundamentalists believed that more religion was needed in all functions of American life and thus sought to remove forms of “anti-religion” from the public schools. The most prominent example of the fundamentalist “crusade” took place in Dayton, Tennessee, in the 1920s. Here state lawmakers passed a law prohibiting the teaching of Charles Darwin’s theory of evolution, thereby encouraging the teaching of Creationism (Dierenfield 1962, 14). The American Civil Liberties Union (ACLU) disagreed with the Tennessee statute and looked for a test case to challenge the law. With encouragement from the ACLU, high school physics and math teacher and football coach, John T. Scopes, taught Darwin’s theory of evolution to his assigned biology class (Larson 1997, 91). In a well-known case featuring Clarence Darrow for the defense and William Jennings Bryan for the prosecution, Scopes was found guilty of violating the Tennessee law. The Scopes trial illustrated the larger clash between religious fundamentalists, who wanted to use the public schools as an avenue to maintain religious orthodoxy, and so-called modernists who desired a strict separation of religion from public schools. In a sense, the debate over Darwinism in the public schools illustrated what Charles Haynes described as the difference between a “sacred public school” and a “naked public school.” After all, the public schools of the seventeenth, eighteenth, and nineteenth centuries infused religion into school policies and practices to

create a “sacred public school.” In contrast, the legal movement to eliminate religious policies and practices, as seen in the Scopes trial, presaged the emergence of a “naked public school” (Hayes and Thomas 2001, 5).

While the Scopes trial dealt with what was construed to be the place of religion in public schools, the U.S. Supreme Court was grappling with the relation of the state to religious schools. For example, in a move to promote national unity after the Great War, and to eliminate Roman Catholic schools, Oregon enacted a statute in 1922 which mandated that all children between eight and sixteen attend public schools. After suffering a decrease in student attendance and a loss in revenue, the Society of Sisters, a Catholic Teaching Order, and Hill Military Academy, challenged the law, believing that it violated the inherent right of parental school choice. In a landmark decision, the Supreme Court of the United States overturned the Oregon law. In *Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary and Hill Military Academy* (1925) the Court recognized the right of parents to direct the education of their children, limited the scope of state regulation of religious schools, and acknowledged the right of private schools to conduct business (*Pierce v. Society of the Sisters of the Holy Names of Jesus and Mary and Hill Military Academy*, 268 U.S. 510, 1-3 (1925)). Using the precedent established under *Meyer v. State of Nebraska* (1923), in which the Court found a Nebraska law forbidding the teaching of foreign languages, specifically German in a Lutheran school, unconstitutional, the Court in *Pierce* declared: “Under the doctrine of *Meyer v. Nebraska*... we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control” (*Pierce v. Society of the Sisters of the Holy Names of*

Jesus and Mary and Hill Military Academy, 268 U.S. 510, 3 (1925)). Thus, in two very different court cases, Americans continued to struggle with the appropriate role of religion in education.

Following the duo of court cases in the 1920s that underscored public debates over the legitimacy of religious fundamentalism and parochial education, the decades leading up to the Supreme Court's decisions in *Engel*, *Abington*, and *Murray* witnessed increasing attention to religion and education issues. For example, results from a 1948 survey conducted by the National Education Association's Research Division showed that 44.46 percent of schools located in the East, 29.32 percent of schools in the West, 27.39 percent of schools in the Midwest, and 10.74 percent of schools in the South participated in released time religious instruction (Dierenfield 1962, 79-80). Similarly eight years later, a study conducted by the University of Chicago provided a listing of states that had either outlawed or supported Bible reading in public schools. It found that only eleven states, including Arizona, California, and Louisiana, utilized state laws, or provisions within state constitutions, to prohibit Bible reading in public schools. The other thirty-seven states utilized state statutes or judicial rulings to encourage or mandate Bible reading in public schools (Dierenfield 1962, 21). Furthermore, public schools throughout the country pre-*Engel* also emphasized moral and spiritual instruction. Results from a nation-wide poll showed that over 99 percent of parents throughout the country supported school objectives that included the teaching of moral values such as, honesty, courage, and loyalty. When asked, however, if school objectives supported the teaching of spiritual values like, love, faith, and the belief in a Supreme Being, regional divisions among parents throughout the country became apparent. Parents living in the South,

94.32 percent of them, believed that their schools taught spiritual values. In comparison, only 77.21 percent of parents residing in the Midwest, 75.39 percent of parents living in the East, and 68.86 percent of parents living in the West felt that their schools promoted spiritual values. This discrepancy between the South and the three other geographical regions highlights the South's greater dependence on direct religious instruction as a means of promoting morality and spirituality in children. As the country quickly approached the 1962 *Engel* decision, Richard Dierenfield's significant volume, *Religion in American Public Schools*, suggests that well over half of all southern public schools conducted daily devotional exercises and Bible readings (Dierenfield 1962, 45-54). Despite the various forms of religious expression found throughout the country pre-*Engel*, the place of religion in public schools became the subject of intense national debate with the trio of Supreme Court cases that ruled that state-sanctioned prayer and devotional Bible reading violated the Establishment Clause of the First Amendment.

Throughout the seventeenth, eighteenth, nineteenth, and early twentieth centuries religion and education maintained an entangled relationship. This partnership led to much confusion over what should, or should not, be God's place in the public schools. Since the 1940s the High Court has been called to address this confusion. The Establishment Clause (Throughout this dissertation, the terms Establishment Clause, no-establishment clause, and disestablishment clause are used interchangeably.) of the First Amendment has been central to the Court's decisions regarding the relationship between religion and public education. Justices often differ in their interpretation of the no-establishment clause and often cite both history and precedents to support their views.

The Constitution and the Courts on Religion and Education

During the Constitutional Convention of 1787, the Founding Fathers intentionally omitted topics of religion and religious liberty. In fact, it was understood that these questions were solely reserved to the states. After all by 1784, eleven of the thirteen states had already incorporated religious freedom clauses into their individual constitutions (Witte 2005, 76). As states formed their own relationship to religion, some Constitutional Convention delegates wanted to clarify the role of the federal government to religion. One such delegate was South Carolina's Charles Pinckney who submitted a religion clause which read, "The Legislature of the United States shall pass no Law on the subject of Religion" (Witte 2005, 77). Pinckney's recommendation died quietly in committee as the delegates believed religious liberty was beyond the scope of federal government (Witte 2005, 77). After four months of debates, the final version of the Constitution was drafted in late September of 1787 and sent to the thirteen states for ratification. Intense discussions within state conventions highlighted the fear of a strong central government and the overall weakness of states. In the end, nine states ratified the Constitution with the promise that the First Session of Congress would draft a bill of rights to protect states from the growing power of the national government. One of the foremost provisions requested by individual states was the protection of religious liberty (Witte 2005, 79).

The summer before the First Session of Congress convened in March of 1789, New Hampshire, along with three other states, crafted their own religious liberty amendments (Witte 2005, 79-80). In an attempt to limit the power of the central government most proposals, which were similar in nature to New Hampshire's, read,

“Congress shall make no laws touching religion, or to infringe the rights of conscience” (Witte 2005, 79). Spearheaded by James Madison of Virginia, who believed that “...religious establishments were beyond the purview of civil authority...” members of the first Congress debated for three months over the appropriate role of religion in civil government (Hamburger 2002, 105). After nineteen different iterations, Congress settled on the following sixteen words to define the relationship between religion and the federal government: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” (Witte 2005, 88). As indicated by the original language, the Religion Clauses of the First Amendment were initially applicable only to the federal government. Despite this written explanation, detailing the central government’s relationship to religion, many misunderstandings still remained.

Since the ratification of the Bill of Rights in the late eighteenth century some state statutes have placed limits on religious liberty. A case in point was Connecticut, where under the law citizens were mandated to pay taxes to the state-established Congregationalist church. In addition, under threat of penalty, citizens had to attend the established church on Sunday. Furthermore under the law civil positions were reserved only for members of the Congregationalist church. By the turn of the nineteenth century, Connecticut had repealed many of the mandates, however, Baptists, in particular, wanted affirmation that religious liberty was an inalienable right, divorced from federal and state oversight (Dreisbach 2002, 32-33). Therefore in a letter to President Thomas Jefferson the Danbury Baptist Association of Connecticut asserted: “Our sentiments are uniformly on the side of Religious Liberty -- That religion is at all times and places a Matter between God and Individuals -- That no man ought to suffer in Name, person or effects

on account of his religious Opinions...” (Hamburger 2002, 158). As Phillip Hamburger explains, the Danbury Baptist Association believed that the state government lacked the power to interfere in matters of religion. Furthermore, the Baptists also believed that the state did not have the authority to limit the rights of individuals on the basis of their religious beliefs (Hamburger 2002, 159). President Jefferson saw the petition as an opportunity to share his views on the proper relationship between religion and government, as well as an avenue to answer criticism for his failure to designate days for public thanksgiving and fasting (Carper and Hunt 2009, 262). In his January 1, 1802, response, Jefferson iterated his belief that religion was a private matter, by saying, “Believing with you that religion is a matter which lies solely between Man and his God...” (Jefferson 1802, 1). As a steady supporter of religious liberty, Jefferson went on to say that the First Amendment had built “...a wall of separation between Church and State” (Jefferson 1802, 1). As explained by Daniel Dreisbach in *Thomas Jefferson and the Wall of Separation between Church and State*, “Jefferson’s ‘wall,’ strictly speaking, was a metaphoric construction of the First Amendment, which governed relations between religion and the *national* government. His ‘wall,’ therefore, did not specifically address relations between religion and *state* authorities” (2002, 50). Despite Jefferson’s intention, his wall of separation metaphor has been used extensively in Supreme Court discussions regarding the disestablishment of religion in the public schools.

With the federal government powerless in matters of religion, individual states and locales were responsible for working out the relationship of religion to the public school in the nineteenth century. As noted previously, sometimes the process was less than civil. The Philadelphia Bible riots is a case in point. Some federal officials wished to

enforce separation at all levels of government, one of them was President Ulysses S. Grant, who in his September 30, 1875, address to the Army of Tennessee asserted:

“...Encourage free schools, and resolve that not one dollar appropriated for their support shall be appropriated for the support of any sectarian schools...Leave the matter of religion to the family, altar, the church, and the private school supported entirely by private contributions. Keep the church and state forever separate.”
(Stokes and Pfeffer 1964, 433)

In the wake of Catholic immigration and adhering to Grant’s proposal, Maine Congressman James G. Blaine introduced a constitutional amendment in 1876 to prevent Catholics from obtaining public funds for their parochial schools. The amendment read:

“No State shall make any laws respecting an establishment of religion or prohibiting the free exercise thereof; and no money raised by taxation in any State for the support of public schools, or derived from any public fund therefor, nor any public lands devoted thereto, shall ever be under the control of any religious sect, nor shall any money so raised or lands so devoted be divided between religious sects or denominations.” (Stokes and Pfeffer 1964, 434)

Blaine’s proposal received support in the House of Representatives, however, numerous Senators choose to abstain from voting, so the amendment lacked the needed two-thirds majority to be submitted to the states. Several factors led to the defeat of the federal Blaine Amendment. Many senators apparently believed that in the wake of the Civil War the Amendment would divide the country again, and the proposal was strongly opposed by Catholics (Stokes and Pfeffer 1964, 434). With the defeat of a federal Blaine Amendment, many state legislatures, including South Carolina’s, drafted so-called “mini-Blaine” amendments that mandated strict separation between church and state in matters of school funding and “sectarian” instruction.

As state governments grappled with issues of school finance, state courts addressed the appropriate relationship between religion and education in the late nineteenth century. In *State ex rel. Weiss and others v. District Board* (1890), otherwise

known as the Edgerton Bible case, Catholic parents of the Edgerton county school system petitioned the local courts to eliminate the reading of the King James Bible during school hours. Petitioning parents argued that the exercise inculcated religion and violated two articles of Wisconsin's Constitution namely, Article I, Section 18, which reads, "The right of every person to worship Almighty God according to dictates of conscience shall never be infringed . . ." and Article X, Section 3, "The legislature shall provide by law for the establishment of district schools . . . and no sectarian instruction shall be allowed therein . . ." (Wisconsin State Constitution 2010, 44; 60). The case went to the Wisconsin Supreme Court where the justices ruled in a five to zero decision that reading from the Bible violated the Wisconsin Constitution (Carper and Hunt 2009, 181). Coincidentally in the same decade, the citizens of Wisconsin endured another conflict regarding state law, religion, and the public schools.

In a move to promote nationalism, after the Civil War, Wisconsin passed the 1889 Bennett Law which required parochial schools to use English as the language of instruction. Catholics and Lutherans found the law extremely offensive because it allowed the state government, as opposed to the parents, to be the primary director of a child's education, a question which was eventually resolved at the federal level in the *Pierce* (1925) decision. The law caused much distress for Catholics and Lutherans, many of whom viewed it as a method of eliminating parochial schools. One year after the Bennett Law was enacted Wisconsin's Catholics and Lutherans united to elect a new governor and under his direction the state legislature repealed the law (Carper and Hunt 2009, 90). Together the Edgerton Bible case and the Bennett Law illustrate Wisconsin's ability to protect religious liberty in the late nineteenth century. Moreover, even though

Wisconsin's court became the first state supreme court to rule Bible reading unconstitutional, devotional prayer and Bible reading practices remained fixtures in American schools throughout the rest of the nineteenth century, and were not addressed in a federal court room until the mid-twentieth century.

The First Amendment's Establishment Clause and the States

During the eighteenth, nineteenth, and early twentieth centuries both the federal courts and the United States Supreme Court stayed quiet on questions pertaining to the appropriate role of religion in public education, as the Establishment Clause applied only to actions of the federal government. In three cases, *Cantwell v. State of Connecticut* (1940), *Minersville School District v. Gobitis* (1940) and *Everson v. Board of Education of Ewing Township* (1947), the Supreme Court addressed questions of religious liberty and eventually "incorporated" the First Amendment's Religion Clauses to state and local governmental actions (Witte 2005, 136-40). In the first case, Newton Cantwell and his two sons, Jesse and Russell, all of whom were members of Jehovah's Witnesses, filed suit against the state of Connecticut over a New Haven licensing law that asserted, "No person shall solicit money, services, subscriptions or any valuable thing for any alleged religious, charitable or philanthropic cause . . . unless such cause shall have been approved by the secretary of the public welfare council" (*Cantwell v. State of Connecticut*, 310 U.S. 296, 2 (1940)). Under the statute, the secretary had the authority to grant a license to one group and not another. The members of the Cantwell family were arrested for distributing religious books, pamphlets, and periodicals, without the appropriate license. In *Cantwell v. State of Connecticut* (1940), the High Court ruled that the license requirement violated the Cantwell's Fourteenth Amendment due process

rights along with their First Amendment rights to free speech and free exercise (Witte 2005, 137). In agreeing with the members of the Jehovah's Witnesses the Court stated:

We hold that the statute, as constructed and applied to the appellants, deprives them of their liberty without due process of law in contravention of the Fourteenth Amendment. The fundamental concept of liberty embodied in that Amendment embraces the liberties guaranteed by the First Amendment. (*Cantwell v. Connecticut*, 310 U.S. 296, 3 (1940))

In addressing the New Haven licensing statute the Court went on to say, "Such a censorship of religion as the means of determining its right to survive is a denial of liberty protected by the First Amendment and included in the liberty which is within the protection of the Fourteenth" (*Cantwell v. Connecticut*, 310 U.S. 296, 4 (1940)). In the *Cantwell* decision the Court recognized the rights of free exercise and equal protection under the law, yet it would be another seven years until the Court made the First Amendment Establishment Clause applicable to state and local actions.

One month after the *Cantwell* decision, the High Court issued a bewildering verdict in *Minersville School District v. Gobitis* (1940). The local Board of Education in Minersville, Pennsylvania, required all students and teachers to salute the flag while reciting the Pledge of Allegiance. Lillian and William Gobitis were enrolled in Minersville's public schools. They were members of Jehovah's Witnesses. The Gobitis children believed that the aforementioned daily exercises violated their religious beliefs and therefore did not participate. As a result of their non-compliance, the Gobitis children were expelled from school. The Gobitis parents then had to enroll their children in private schools to be in agreement with the Pennsylvania compulsory attendance law. To alleviate the financial burden of private school, the Gobitis parents filed a lawsuit against the school district with the goal of ending the mandatory flag salute ceremony

(*Minersville School District v. Gobitis*, 310 U.S. 586, 1 (1940)). In delivering the majority opinion for the Court, Justice Frankfurter explained the crux of the case, “We must decide whether the requirement of participation in such a ceremony, exacted from a child who refuses upon sincere religious grounds, infringes without due process of law the liberty guaranteed by the Fourteenth Amendment” (*Minersville School District v. Gobitis*, 310 U.S. 586, 2 (1940)). In an eight to one decision the Court upheld the Minersville School Board policy asserting that the daily recitation of the Pledge of Allegiance, as well as a flag salute, were appropriate methods of promoting citizenship and an American identity in school children. The Court went on to say:

A society which is dedicated to the preservation of these ultimate values of civilization may in self-protection utilize the educational process for inculcating those almost unconscious feelings which bind men together in a comprehending loyalty, whatever may be their lesser differences and difficulties. (*Minersville School District v. Gobitis*, 310 U.S. 586, 4 (1940))

Three years would pass until the Supreme Court addressed a similar case, which overturned the *Minersville* verdict. In *West Virginia State Board of Education v. Barnette* (1943) the Court declared:

We think the action of the local authorities in compelling the flag salute and pledge transcends constitutional limitations on their power and invades the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control. (*West Virginia State Board of Education v. Barnette* 319 U.S. 624, 6 (1943))

Here the Court asserted its understanding that even though a flag salute and recitation of the Pledge of Allegiance might promote nationalism among school children, the mandatory nature of these actions violated the promise of religious liberty as found in the First Amendment. As the Supreme Court continued to shape the boundaries of religion in the public schools, the justices would hear *Everson v. Board of Education of Ewing*

Township (1947), which resulted in the First Amendment's Establishment Clause being incorporated through the Due Process Clause of the Fourteenth Amendment.

Everson addressed a New Jersey statute that allowed school districts to make contracts for the transportation of students to and from schools. Under this law, Ewing Township granted reimbursements to parents whose children utilized public transportation. Among those who benefited from the reimbursements were parents who sent their children to Catholic parochial schools. In a five to four decision, the Supreme Court upheld the state's statute and in a lengthy majority opinion Justice Hugo Black explained the relationship between the local law and the First Amendment by declaring, "Measured by these standards, we cannot say that the First Amendment prohibits New Jersey from spending tax raised funds to pay the bus fares of parochial school pupils as a part of a general program under which it pays the fares of pupils attending public and other schools" (*Everson v. Board of Education of Ewing Township*, 330 U.S. 1, 7 (1947)). In what became known as the "child benefit" theory, Black continued to clarify questions regarding the state's operation of public schools and religion by affirming, "State power is no more to be used so as to handicap religions, than it is to favor them" (*Everson v. Board of Education of Ewing Township*, 330 U.S. 1, 7 (1947)). In upholding the local statute, Justice Black closed his majority opinion in puzzling language by saying, "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. New Jersey has not breached it here" (*Everson v. Board of Education of Ewing Township*, 303 U.S. 1, 8 (1947)). In contrast to Justice Black's opinion, Justice Robert Jackson wrote a dissenting opinion in which he explained his disapproval of the majority decision. He asserted: "In

fact, the undertones of the opinion, advocating complete and uncompromising separation of Church from State, seem utterly discordant with its conclusion yielding support to their commingling in educational matters” (*Everson v. Board of Education of Ewing Township*, 303 U.S. 1, 8 (1947)). Nevertheless, in upholding the statute, the justices fully applied the First Amendment’s disestablishment clause to state and local governmental actions and enunciated a “strict separationist” interpretation of the First Amendment’s Establishment Clause.

One year after the High Court addressed transportation reimbursement, it dealt with released time religious instruction in public schools. As previously mentioned, the practice of releasing children during the school day to attend religious instruction originated during the Progressive Era. One such program in Champaign County, Illinois, allowed for Protestant, Catholic, and Jewish students to voluntarily attend religious classes conducted by clergymen on school grounds. The program was challenged by a professed atheist, and in an eight to one decision the Supreme Court ruled the district’s released time programs unconstitutional (Dierenfield 2007, 52-54). In *McCullum v. Board of Education* (1948) the Court explained:

Here not only are the state’s tax supported public school buildings used for the dissemination of religious doctrines. The State also affords sectarian groups an invaluable aid in that it helps to provide pupils for their religious classes through use of the state’s compulsory public school machinery. This is not separation of Church and State. (*McCullum v. Board of Education*, 333 U.S. 203, 4 (1948))

The Supreme Court went on to clarify its position on released time programs further in *Zorach v. Clauson* (1952). At issue was a New York law that allowed students to travel off school grounds during the normal hours of a school day to attend religious centers or devotional exercises. The Court rejected a First Amendment challenge to the statute

reasoning that such a program was a practical accommodation of parents' religious desires for their children during school hours. Defending this position Justice William O. Douglas asserted: "We are a religious people whose institutions presuppose a Supreme Being. We guarantee the freedom to worship as one chooses" (*Zorach v. Clauson*, 343 U.S. 206, 4 (1952)). Furthermore, the justices recognized that a failure to accommodate parental wishes could be interpreted as "hostility to religion" (*Zorach v. Clauson*, 343 U.S. 206, 5 (1952)). Therefore, by the mid-1950s, the Supreme Court had concluded, while religious institutions on campus breached the "wall of separation," such activities off campus were a method of meeting the religious needs of an increasingly pluralistic society.

Following a ten year hiatus, the Supreme Court once again wrestled with the issue of the appropriate role of religion in public schools. Three decisions in 1962 and 1963 were among the most controversial rulings ever rendered by the Supreme Court of the United States. The first, *Engel v. Vitale* (1962), had its origins in 1951 when the New York Board of Regents unanimously adopted a non-denominational prayer to be recited in classrooms throughout the state (Dierenfield 2007, 67). The prayer, constructed by a variety of religious figures, including Catholic priests, Jewish rabbis, and Protestant leaders, read, "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our Country" (*Engel v. Vitale*, 370 U.S. 421, 2 (1962)). Believing that the prayer violated the Establishment Clause of the First Amendment, parents residing in Herricks School District in New Hyde Park, New York, sued the state. New York's highest court, however, upheld the practice. The plaintiffs then appealed their case to the Supreme Court of the United States. In a concise

ruling written by Justice Hugo Black, the Court observed: “We think that by using its public school system to encourage recitation of the Regents’ prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause” (*Engel v. Vitale*, 370 U.S. 421, 2-3 (1962)). The Court held that because schools were publicly funded institutions, the mandate to recite any prayer violated the “strict separationist” reading of the First Amendment’s Establishment Clause (Witte 2005, 205). In short order, in *Abington School District v. Schempp* (1963), and its companion case, *Murray et al. v. Curlett et al.* (1963), the Supreme Court declared devotional Bible reading and the recitation of the Lord’s Prayer in public schools a violation of the “no establishment clause” of the First Amendment (Witte 2005, 205-06).

Following *Engel*, *Abington*, and *Murray*, the Court continued to chip away at policies and practices that ran afoul of its separationist understanding of the Establishment Clause. In 1980, for example, the Court declared unconstitutional the posting of plaques containing the Ten Commandments in public schools. Five years later, the Court ruled teacher-initiated moments of silence unconstitutional. Twenty years later, in 2000, the Court declared government-encouraged prayer at public school football games unconstitutional. Since 2000, however, the Court has eased its separatist view. In *Mitchell et al. v. Helms et al.* (2000), *Zelman v. Simmons-Harris* (2002), and *Arizona Christian School Tuition Organization v. Winn et al.* (2011), a divided Court condoned the use of federal funds to provide instructional material to religious schools, approved vouchers for public, private, and parochial schools, and in April 2011, upheld an Arizona education tax credit program.

Framework

The remaining six chapters of this dissertation will explore the relationship between religion and public schools in the South Carolina context. Chapter II entitled, “South Carolina pre-*Engel*” will discuss the role of religion in public schools in the years prior to the *Engel* decision. Chapter III, “The *Engel* Decision” will recount the events leading to the *Engel* case, as well as the Court’s decision. Chapter IV “South Carolina Responds to *Engel*” will detail South Carolina’s social, denominational, and political responses to the *Engel* decision. Chapter V “The *Abington* and *Murray* Decisions” will address the events leading up to the *Abington* and *Murray* cases, as well as the Supreme Court’s decisions. Chapter VI “South Carolina Responds to *Abington* and *Murray*” will analyze South Carolina’s social, denominational, and political responses to the *Abington* and *Murray* rulings. Lastly, Chapter VII “South Carolina Responds to *Engel*, *Abington* and *Murray*: Conclusions” will draw conclusions, describe the significance of the *Engel*, *Abington*, and *Murray* rulings, and recommend future directions for research.

CHAPTER II

SOUTH CAROLINA PRE-*ENGEL*

“Education and faith in God are the indispensable duet which will make our land and our world a better place in which to live.” (1960, 2)

U.S. Congressman Robert Ashmore (D-SC)

Controversy over the role of religion in public education has been well documented in numerous books and articles, but virtually no work addresses the reactions of South Carolinians to the *Engel*, *Abington*, and *Murray* decisions of the 1960s. This lack of research makes South Carolina an important state to study for several reasons. Home to John C. Calhoun and his theory of state rights (often referred to as states’ rights), South Carolina is a state unlike any other in the Union. As the first state to secede in 1860, to the gradual integration of public schools in the 1960s, and initially refusing federal stimulus money in 2008, South Carolina has a long tradition of questioning external directives. This uniqueness is sometimes viewed as rebelliousness, yet it is an integral part of what makes South Carolina a distinctive state. Furthermore, South Carolina’s location in the heart of the “Bible Belt” has impacted school practices with mandated Bible reading, courses in Bible, classroom prayers, baccalaureate services, prayers before athletic events, and moments of silence. As a state with an affinity for religion and independence, South Carolina provides a fertile and interesting location to examine the appropriate role of religion in the public schools.

Recent Conflicts between Religion and Public Education in South Carolina

Centuries after colonization and decades following the *Engel* decision, some of South Carolina's public schools still maintain a close relationship to religion. Sometimes this partnership infringes upon the rights embedded in the Establishment Clause of the First Amendment. For instance, in an August 26, 2011 memorandum with the subject line, "Observances and Activities of the September 11, 2001 Terrorist Attacks" State Superintendent of Education Mick Zais expressed his desire for district superintendents to encourage their school officials to remember the ten year anniversary of the September 11, 2001 terrorist attacks (Zais 2011, 1). In suggesting how school officials should address the anniversary, Zais remarked: "Since schools will not be open on the actual anniversary day, you may consider moments of silence, reflection, and prayer on Friday, September 9 or Monday, September 12" (Zais 2011, 1). The Superintendent's encouragement of prayer runs counter to the spirit, if not the letter, of the Supreme Court's ruling in *Engel v. Vitale* (1962), and also highlights the still visible role that religion plays throughout the state. Moreover, a December 2011 newsletter distributed to teachers in one Midlands high school also illustrates the still current association of religion and public education. In seeking to attract the membership of teachers, principals, cafeteria workers, and other school employees the flyer under the headline: "Dear God, Welcome Back to School" promises that members will: "...learn and apply Biblical principles to your life, your students and effectively change the atmosphere of your classroom and school" (Fraizer 2011, 1). Created by PS 24, a local organization, the newsletter was clearly informational in nature, yet its distribution raises questions about

the sponsorship of a religious activity on school grounds. Altogether both Zais' memo and the PS 24 flyer evince the continued prominence of religion in the public school.

Although Zais' memo and the PS 24 flyer may have violated the letter of the law, a more notable event within the 2011-2012 academic year led to a flagrant breach of the First Amendment's no establishment clause. Here a school-sponsored event at New Heights Middle School, located in Chesterfield County, garnered national attention when a school-wide assembly resulted in an ACLU lawsuit that charged that the district had violated the Establishment Clause of the First Amendment. Located in the Pee-Dee region of South Carolina, Chesterfield County School District illustrates the close bond found between public schools and religion. For example, in an October 2011 posting on the Chesterfield County School District's website, District Superintendent John Williams explained his decision to resign at the end of the school year. He stated: "Now, it is time for me to take my bow and leave the stage and pray to God that I have had some positive effect on the children of Chesterfield County School District" (Chesterfield County School District 2011, 1). Williams closed his posting by saying, "May God bless Chesterfield County Schools" (Chesterfield County School District 2011, 1). His postings illustrate the school district's affinity for religion, but do not violate the U.S. Constitution. The school district's close bond with religion, however, directly violated the First Amendment's Establishment Clause when New Heights Middle School hosted what was described as a religious revival on September 1, 2011. Following the school endorsed assembly, lawyers for the ACLU filed a petition in U.S. District Court on the behalf of Jonathan Anderson, a parent whose son attends New Heights Middle School. The lawsuit alleged that:

...on September 1, 2011, New Heights Middle School officials held an evangelical revival assembly to “save” students by encouraging them to accept Jesus Christ into their hearts. The school-day assembly featured a minister who delivered a sermon, a Christian rapper (known as “B-SHOC”), and church members who prayed with the students. Students were urged to sign a pledge dedicating themselves to Christ. (*Jonathan Anderson v. Chesterfield County School District*, 2 (2011))

In claiming that the school assembly violated the no establishment clause, the petition also alleged that: “District officials have repeatedly incorporated prayer and proselytizing into various school-sponsored events, such as school-day assemblies, choral concerts, awards ceremonies, and football games” and that “...religious iconography and messages adorn the main office, lobby and hallways...” (*Jonathan Anderson v. Chesterfield County School District*, 2 (2011)). Anderson, a self-identified “non-believer” stated that the aforementioned actions taken by the Chesterfield County School District interfered with his parental right to guide the religious education of his son. On January 12, 2012, the Chesterfield County Board of Trustees responded to the ACLU petition. In a six to three vote, the Board approved a “consent decree and order” that eliminated the grounds of the ACLU lawsuit. In explaining the Board of Trustees vote the Chesterfield County School District website asserted: “The Board wishes to make it clear that it intends to abide by the constitutional principle of separation of church and state, while also recognizing and allowing the permissible exercise of religion by its staff and students and all citizens” (Chesterfield County School District 2012, 1). Altogether, Zais’ memo, the PS 24 flyer, and the incident at New Heights Middle School suggest that South Carolina’s public schools still embrace religious practices that often run afoul of the First Amendment’s no establishment clause.

The Religious Roots of South Carolina

As already noted, no one should be surprised that South Carolina's public institutions have maintained a cozy affiliation with religion. Beginning in the colonial era the Carolina colony was governed by five different versions of the Fundamental Constitution of Carolina. Each edition of the Constitution promoted property rights and religious toleration as a means of attracting new settlers to the colony. As with many British colonies, The Church of England was the established, tax-supported church of the Carolina colony. Despite the colony's endorsement of Protestantism, the state constitution also protected religious dissenters. For instance, non-Anglicans, including Jews and Quakers, were allowed to settle in the colony and build their own churches, so long as they professed a belief in God, not Christ. Despite the religious pluralism found in the Carolina colony, Roman Catholicism was not tolerated. This firm stance against Catholic settlements was generally supported by those who sought to restore the values of the Church of England (Edgar 1998, 42-43). Nevertheless South Carolina's toleration of Protestantism is echoed in Walter Edgar's book, *South Carolina: A History*, where he claims: "With the exception of Rhode Island's, this was the most tolerant religious policy in English America" (1998, 43). As the territorial divisions between North and South Carolina became permanent and more colonists settled in South Carolina, state laws continued to reflect the entangled relationship between religion and education.

As previously discussed in Chapter I, throughout the seventeenth century the South lacked a firm structure of schooling because of its dependence on agriculture, and predominant belief that matters of education should be left to the family. As South Carolina entered into the eighteenth century, however, a state law promoted the creation

of what would eventually become public schooling. Similar in nature to charity schools, the statute of 1710 stated: "...[I]t is necessary that a free school be erected for the instruction of the youth of this province in Grammar, and other arts and sciences and useful learning and also in the principles of the Christian religion" (Boles 1965, 9). This South Carolina decree supported similar sentiments found in the Massachusetts laws of 1642 and 1647, as well as the Northwest Ordinance of 1787 which ordered public schools to provide both literacy and moral training.

South Carolina's fondness for religion continued long after colonization, and is most notably reflected in the state's legal documents, both past and present. For example, South Carolina's 1778 Constitution mandated that in order to vote citizens must believe in God. The Constitution also reserved all seats in the state legislature for members of the Protestant church (Boles 1965, 40). Likewise, despite the High Court's ruling in *Torasco v. Watkins* (1961), which banned religious tests for public officials, Article XVII, Section IV of South Carolina's 2011 Constitution boldly affirms: "No person who denies the existence of a Supreme Being shall hold any office under this Constitution" (South Carolina Constitution 2011, 569). Additionally, South Carolina's Code of Laws further reflects the religious traditions of the state. For example, Title 10: Public Buildings and Property, Section 10-1-168, allows municipalities to post documents that influenced the creation of American law and government, such as the Ten Commandments and the Lord's Prayer (2012, 13-16). Likewise Title 59: Education, Section 59-29-230 allows for the creation of "Old and New Testament Era Courses" and Section 59-39-112 permits "Elective credit for released time classes in religious instruction" (South Carolina Code of Laws 2012, 88-89; 101-02). Even though the legal codes seem to openly support the

Christian faith, South Carolina's Constitution does establish boundaries regarding public funds and sectarian schools. Influenced by Congressman James G. Blaine's crusade in the late nineteenth century, the South Carolina Constitution includes a mini-Blaine Amendment which reads: "Direct aid to religious or other private educational institutions prohibited. No money shall be paid from public funds nor shall the credit of the State or any of its political subdivisions be used for the direct benefit of any religious or other private educational institution" (South Carolina Constitution 2011, 525). Despite this clear prohibition of the commingling of public funds and religious schools, South Carolina's special relationship with religion remains prominent in some state documents.

South Carolina's bond with religion is also exemplified in the daily records found throughout the twentieth century. Everyday documents, such as the newspapers, located throughout the three regions of the state, Midlands, Low-Country, and Up-State, provide evidence of Carolinians affinity for religious practices. For instance, throughout the 1960s, *Columbia's State* included daily devotionals and featured a column written by the well-known religious leader, the Reverend Billy Graham; *Charleston's News and Courier* included a section entitled "Religion Today" to address important religious topics; and the *Greenville News* maintained space on the front page entitled "Pause to Pray," which featured religious words of wisdom. It is in this environment that the Supreme Court's decision will be evaluated by citizens, politicians, and denominational leaders within the state. In sum, from the colonial years to the eve of *Engel, Abington*, and *Murray*, religion was a major feature of South Carolina's social, cultural, and political landscape. As the Supreme Court made the First Amendment's religion clauses applicable to the states in the 1940s, and handed down several controversial decisions in

the decades following “incorporation,” citizens across the nation voiced strong and varied opinions of the Court’s decisions. Sometimes, surprisingly, public reaction was muted.

South Carolina’s Response to the Supreme Court’s Decisions Pertaining to Religion and Public Education

In the wake of the *Everson* decision (1947), in which the Supreme Court ruled that transportation reimbursements to parents who sent their children to Catholic parochial schools was not a violation of the First Amendment’s Establishment Clause, South Carolinians were surprisingly quiet in their response. In fact, the major newspapers throughout the Midlands, Up-State, and Low-Country did not even mention the *Everson* case or the Supreme Court’s decision. This lack of a public reaction could be explained in that South Carolinians either supported the accommodationist ruling, lacked knowledge of New Jersey’s practice, or were not vexed by the ruling because it mostly affected Catholics. Unfortunately no documents provide a clear explanation of the hushed public response. Similar sentiments were echoed by members of the state legislature and the U.S. Congress who, for the most part, did not even mention the ruling in their correspondence.

Although the general public may have been indifferent to the *Everson* decision, conservative U.S. Congressman Joseph Bryson disagreed with the verdict. As a representative from South Carolina’s Fourth Congressional District, Bryson, on May 2, 1947, proposed a Constitutional Amendment which would place restrictions on the state and federal government’s ability to provide aid to schools under sectarian control. Similar to the federal Blaine Amendment of 1876, the first section of House Joint Resolution 187 read, “Neither the Congress nor any of the several States shall grant or appropriate

money, property, or credit to aid or support any educational institution wholly or in part under sectarian control” (Bryson 1947, 1-2). Section two of the proposed amendment attacked the High Court’s ruling in *Everson* by asserting: “Neither the Congress nor any of the several States shall furnish free transportation...of, any person attending an educational institution wholly or in part under sectarian control” (Bryson 1947, 2). In the months following the *Everson* verdict, Bryson continued to fight for the passage of his amendment and in an undated speech entitled “Mending the Breach” he opined: “The prompt adoption of this proposed amendment is urgently needed to repair the damage already done, and to prevent any new assault against fundamental religious liberties” (Bryson, 8). Despite Bryson’s attempt to maintain the government’s strict separation from “sectarian” education, his resolution was referred to the Judiciary Committee, where it never received the proper support and died quietly.

In the year following the *Everson* ruling South Carolina’s public educational institutions continued to operate as usual. As the *McCullum v. Board of Education* (1948) decision approached, many students in South Carolina’s public schools participated in classroom prayer, classroom Bible readings, and most notably, courses in Bible.

Differing from the silence observed after *Everson*, South Carolinians were much more vocal in expressing their support and disdain of the High Court’s verdict in the *McCullum* case. Here, in an 8-1 decision, the Supreme Court ruled that released time religious instruction programs held on a public school campus violated the Establishment Clause. On March 9, 1948, one day after the decision was announced *The State* and the *News and Courier* carried the following front page headlines: “High Court Overrules Religious Aid By Schools” (*The State* 1948, 1) and “Religious Teaching In School

Banned” (*News and Courier* 1948, 1). The placement of the articles on the front page suggests that this was a verdict that South Carolinians would find interesting. Yet, the lack of editorials, letters to the editor, and political cartoons, addressing the decision shows that Carolinians hesitated to voice their support or opposition in a public forum. Despite the lack of a public outcry following the decision, small pockets of support and opposition existed among denominational groups, politicians, and local citizens.

For example, Senator Olin D. Johnston did not express his opinion in public, but his personal papers offer insight into the responses of some religious organizations. Most notable, was an eight page reaction composed by members of the North, South, and National Baptist Conventions. Issued by Chairman E. Hilton Jackson of the Joint Conference Committee on Public Relations, the March 1948, “Report from the Capital” expressed appreciation of the decision saying: “It serves as the greatest single safeguard to separation of church and state outside the First Amendment itself” (1948, 2). The “Report” then discussed the implications of the decision and concluded by questioning the future of religious education. Here it asserted that “something else” must be done to provide students with a religious foundation, and “That something else is a nationwide drive to reconstitute the home as a place of religious nurture and a revival of concern among our churches to fulfil [*sic*] their God-given task of religious instruction” (1948, 8). The sentiments expressed by Baptists also resonated with a newly formed national religious group, Protestants and Other Americans United for the Separation of Church and State.

Established prior to the Court’s decision in *McCullum*, Protestants and Other Americans United for the Separation of Church and State (POAU) seeks to uphold

religious liberty. As defined in its manifesto, the POAU's goals are: "(1) to revive in the public mind a clear understanding of the constitutional basis upon which religious liberty has been guaranteed, (2) to redress the specific violations which have recently come into force, and (3) to resist further encroachments upon this constitutional principle" (1948, 1). In the manifesto, the group not only details its disapproval of the *Everson* decision, but also voices concern over the mixing of religion and government as seen with the decision to send a U.S. ambassador to Rome (1948, 12). As a "strict separationist," Congressman Bryson supported the creation of the POAU and on March 16, 1948, Bryson asked the Speaker of the House to include the organization's manifesto in the Congressional Record (Bryson 1948, 1-2). In addition to these denominational responses, Senator Johnston's papers also included the booklet "Should Public Schools Do Church Work?" Composed by Paul Kinney of the National Liberal League of New York, the booklet supported the *McCullum* ruling believing that released time religious instruction interrupted the school day, segregated students by their religious preferences, and favored the Protestant religion (3-8). Altogether the documents found within Senator Johnston's papers provide some insight into the reactions of religious groups to the *McCullum* edict.

As was the case among religious leaders, members of the state legislature said little about the *McCullum* decision. Even though state leaders probably discussed the High Court's rulings, no records address their position or the opinions of South Carolinians. For instance, one of the more outspoken members of the General Assembly in the mid-twentieth century was Representative Edgar Brown of Barnwell County. Known for his ability to help the "little people," Brown served in the South Carolina legislature during a time when the state struggled over issues such as the Great

Depression, World War II, racial segregation, and religion in the public schools (Edgar 1998, 559). Yet, Brown's personal and professional papers do not provide any comments to the *McCullum* decision. Instead, letters found in his files pertaining to education in 1948 consisted of local citizens asking for an increase in teacher salaries (Brown 1948). As an alternative to voicing their concern to politicians or churches, South Carolinians more frequently expressed their approval and disapproval of the *McCullum* verdict to members of the State Board of Education.

Among the religiously-based activities in South Carolina's public schools, no practice was more prominent in the mid-twentieth century than courses in Bible. Taught by teachers who were certified in only the subject of Bible, these classes provided moral instruction to the young citizens of the state. Two years before the High Court ruled on the *McCullum* case, minutes from the December 2, 1946 meeting of the State Board of Education epitomizes South Carolina's union to religion. During this particular meeting, Board members discussed the process of issuing teaching certificates in Bible. The minutes reflect the opinions of two Board members, a Mr. Easterling and a Mr. Hope, who "...were heartily in favor of teaching of the Bible in the public schools" (Board of Education 1946, 2). The topic of Bible courses or certification in Bible was not mentioned again until 1948. Then on January 16, 1948, three months before the *McCullum* verdict was announced, the State Board of Education addressed the teaching of Bible in the public schools. During this meeting the Board heard the concerns of E.B. Hallman, Superintendent of Schools in Spartanburg, and E.W. Rushton, Superintendent of Schools in Orangeburg, who expressed the problems associated with teaching Bible in the public schools. In their address, Hallman and Rushton asked the Board to consider the

following three suggestions if courses in Bible were to remain in the public schools: “(1) That no public money be used to pay teachers of Bible. (2) That no credits in Bible be recognized toward high school graduation. (3) That no teacher’s certificates be issued in Bible” (State Board of Education 1948, 3). The Board then met in private to discuss the matter further and passed a motion to cease the issuance of teacher certificates in Bible, however, the Board did not eliminate courses in Bible (State Board of Education 1948, 3). One month later, in the February 20, 1948 meeting, the State Board once again addressed the issuance of teacher certificates in Bible. In the process of answering questions from the teacher certification office, it seemed that the Board backed-off from its January decision. During the meeting, Board member Grier, stated the dilemma of offering courses in Bible:

...if we could get out of our minds the difference between the teaching of religion and the inculcation of morality and if there could be an agreement between Protestants, Catholics, and Jews as to a basic morality needed in a democracy, we might formulate a code of ethics on the basis of the Bible that would not exploit dogma but would teach basic principles of Christian living. (State Board of Education 1948, 7)

Grier’s plea went unheard in the February meeting as a fellow board member motioned that the question of issuing teaching certificates in Bible be deferred until the next Board meeting. In the March 26, 1948, gathering the State Board of Education planned a special session to be held on April 2, to discuss the teaching of Bible in the public schools (State Board of Education 1948, 5). Convening just one month after the *McCullum* ruling was announced, the State Board of Education took the following action: stop the issuance of teacher certificates in Bible, deny the renewal of any expired teacher certificates in Bible, and revoke high school credit for any student taking Bible after July 1, 1948 (State Board

of Education 1948, 2). The Board's choice to eliminate teacher certificates in Bible was overshadowed by the decision to revoke high school credit for the completion of courses in Bible.

An anonymous report included in the correspondence of Superintendent Anderson provided a listing of South Carolina high schools that offered courses in Bible. Although the report was undated, other documents found within the same folder were dated in 1948. The report revealed that 1,399 students were enrolled in Bible courses that extended over a period of 36 weeks. Of the 31 schools studied, Allendale, Loris, Hartsville, and Pelzer high schools maintained the largest student enrollment with over 100 students participating in Bible courses. Furthermore, the report showed that individual schools could award a half credit, a whole credit, or no credit for students who completed the course. In addition, the teacher's salary was often paid through local churches, districts, local funds, state funds, or a combination of the aforementioned. The study also detailed the duration of courses in Bible. For example, some high schools, like Chesterfield, had taught courses in Bible for ten years, while other schools like Lancaster, had only taught Bible for one year. Lastly, the report enumerated popular justifications for courses in Bible. They included: promoting character education, teaching literature, and instilling history amongst the student population. Very few schools admitted to using courses in Bible as a means of teaching Christianity, developing love for the Bible, or preaching the life of Christ (1-4).

Following the State Board of Education's decision to eliminate Bible courses in future school years, local citizens, denominational leaders, and politicians shared their personal opinions. One of the first people to respond to the Board's verdict was Robert

McQuilkin, President of Columbia Bible College, which at the time trained teachers in Bible instruction. In an April 6, 1948 letter mailed to Anderson and every member of the State Board of Education, McQuilkin remarked: “It would seem that this action goes beyond the Supreme Court decision” (McQuilkin 1948, 1). He continued declaring: “South Carolina should lead the nation in holding to the Bible as the foundation of our nation and all its greatness. If the Supreme Court action were carried to its logical extreme, it would mean a secular and therefore an atheistic school system” (McQuilkin 1948, 1). McQuilkin closed his letter by asking the Board to thoroughly examine its decision once again before choosing to implement it. (McQuilkin 1948, 1). McQuilkin eventually received his wish, thanks in part to the support of Governor Strom Thurmond.

Governor Thurmond, who was unable to be present for the State Board of Education meeting in April because he was attending to duties with the General Assembly, abhorred the State Board’s decision. In an April 15, 1948, speech Thurmond asserted: “When children are given credits in our public schools for studying dead languages, ancient History, and the like, and denied credits for courses on the teachings of the Master, then I feel that we have reached a time when a general spiritual awakening is badly needed” (Thurmond 1948, 1). Thurmond claimed that if he would have been present for the April meeting he would have opposed the Board’s action. He closed his address by pledging to get the Board to reconsider its decision (Thurmond 1948, 1-2). At the regularly scheduled Board of Education meeting on April 16, Governor Thurmond invited President McQuilkin to share his views. McQuilkin asked the Board to reconsider its previous decision and grant students credit for completing courses in Bible. He also

expressed his desire to maintain Bible instruction, and in an April 19, 1948 letter to Anderson he clarified his position:

The fallacy under which many of the Supreme Court justices are working is the idea that separation of Church and State means separation of religion and the Bible and God from the State, and therefore from the public school system. The grave problems that we face in connection with the Roman Catholic views and in connection with atheistic teaching ought not to be solved by giving way to the atheistic interpretation. (McQuilkin 1948, 2)

After hearing McQuilkin's plea on April 16, Thurmond, as promised, proposed a motion to grant high school students credit for completing courses in Bible. The motion passed. Thurmond then appointed a committee of five people, all of whom were members of the State Board of Education and State Department of Education, to establish the parameters under which public schools could offer courses in Bible (State Board of Education 1948, 2). A year would pass before the committee presented its findings to the State Board of Education. In the meantime, South Carolinians continued to voice their opinions regarding the offering of Bible courses.

In the days leading up to and following the April 16 meeting, educators throughout the Palmetto State penned letters to Anderson detailing their stance on religious courses. For instance, in an April 14, 1948, letter addressed to Anderson, President of Coker College, Donald C. Agnew, noted that for the past several years the Hartsville Council on Religious Education had supported the teacher of Bible and also that many students enrolled in the course with the expectation that they would be awarded high school credit. In the letter Agnew stated that the Hartsville Council on Religious Education had "...talked very seriously about the recent Supreme Court decision and we feel that our program does not in any sense violate the spirit or the letter of that decision" (Agnew 1948, 1). In his response on April 19, 1948, Anderson noted the

Board's decision to allow credit to be awarded for courses in Bible under forthcoming regulations (Anderson 1948, 1). In addition, C.H. Watson, principal of a local Kershaw County high school, expressed his disapproval of the High Court's ruling and the Board's April 2 decision. He asserted: "My experience is that education is something for the whole man and that we cannot in anywise separate the intellectual and the vocational from the moral and spiritual side of him" (Watson 1948, 1). Furthermore, he continued, "...to remove credits from the subject kills it" (Watson 1948, 1). Responding to Watson, Anderson proclaimed his desire to uphold the local autonomy of the school districts to offer courses in Bible. He explained:

Since you know the members of the State Board, you know that their original action was not against the Bible but was a matter of trying to remove the State's responsibility and leave the communities free. I hope that something will be worked out that will give the local communities or schools more latitude so that the influence of the Bible will not be confined to the number of pupils electing to study Bible. (Anderson 1948, 1)

President McQuilkin continued to write numerous letters to members of the State Department of Education and alumni of Columbia Bible College to solidify support for courses in Bible. In one such letter dated April 26, 1948, McQuilkin wrote:

In the South especially we have an opportunity at this point, to make true non-sectarian teaching of the Bible to become universal in our schools. We shall then have a demonstration as to the tremendous difference in the matter of morals and in the increase of crime, as between those states which permit the Bible and those states which keep the Bible out. (McQuilkin 1948, 3)

As 1948 came to a close, McQuilkin continued to denounce the High Court's *McCullum* decision and emphasize the connection between religion and moral education. For instance, in a November 1, 1948 article in the *United Evangelical Action*, an organ of the National Association of Evangelicals, entitled "The Supreme Court and the Atheist,"

McQuilkin quoted Horace Mann who said: “Moral education is a primal necessity of social existence...” (McQuilkin 1948, 3).

As Grier’s committee discussed the parameters of offering Bible courses in public schools, local citizens shared their views. One example was a signed petition from 50 residents in Kershaw County who supported Bible courses. It read:

We feel very strongly that the Teaching of Bible is of great benefit, and is greatly needed in our schools as a character building influence, and as a deterrent to delinquency. We feel that the teaching of Bible as a voluntary elective in no way violates the decision of the United States Supreme Court, and that it is legitimate and desirable that credit be given for this course. (Blackwell 1948, 2)

Another case in point was a petition with 40 signatures from the Hartsville Women’s Christian Temperance Union which affirmed: “We have had this course in our city schools for the past few years and feel if it were discontinued our young people would be deprived of a great influence for good” (1948, 1). Concern over the elimination of Bible courses was also shared by two fourteen year old Hartsville High students who boldly declared in a letter to Anderson: “Do you think God is pleased with this? You might be educated in books but we think that you should read the Bible and maybe it will help you and your work” (Segare and Galloway 1948, 2). The two also expressed their disapproval of the Supreme Court’s ruling and Vashti McCollum, who they referred to as: “... that atheist woman...,” who the girls believed “... should have her head cut off” (Segare and Galloway 1948, 2). Although the majority of correspondence found in Anderson’s files supported the State Board of Education’s decision to award credit for the completion of courses in Bible, a few citizens thought that the practice violated the First Amendment’s Establishment Clause.

Among the more significant letters from South Carolinians who expressed their disapproval of the State Board of Education's decision to award high school credit for courses in Bible, were those from E.B. Hallman and William Carr. Hallman, the Superintendent of Schools in Spartanburg who had previously addressed the State Board in January of 1948, wrote Anderson a seven page letter stressing the importance of keeping church and state separated. In the letter, Hallman criticized supporters of the public schools who condoned the teaching of the Bible as literature. He opined: "What is being asked is that the Bible be taught for religious purposes" (Hallman 1948, 3). Hallman also opposed elective courses in Bible and released time religious instruction classes because, he believed, both violated the Establishment Clause and segregated students based on their religious beliefs. (Hallman 1948, 3-4). His letter closed with a firm statement:

No enemy of Protestant Christianity could do it a greater disservice than would be done by the advocate of public school responsibility for Christian training...The very request implies a mood of defeatism and of a lack of faith in ways more in accord with divine plan and indicates unwillingness to accept responsibility where it rightly belongs, in the home and in the church. (Hallman 1948, 7)

A letter from William Carr, a Varnville citizen, echoed Hallman's view of the First Amendment. Carr explained his position stating: "I am not opposed to religion for those who wish to practice it. My opposition commences where an attempt to impose it upon me, or mine" (Carr 1949, 2). By asserting that the school has no grounds to inflict religion on students, he ended his letter by asking Anderson to include a course in "Hierology" that would compare religions and take into account the diverse views of all South Carolinians (Carr 1949, 2). While South Carolinians expressed their opinions, the

State Board of Education's special committee was still formulating the parameters of awarding credit for the completion of Bible courses.

Seven months after the Committee on the Teaching of the Bible was created, the State Board of Education heard the committee's progress. In the November 19, 1948, meeting Chairman Grier informed the Board that the committee had met with church and religious leaders throughout the state, including a recent meeting at the Washington Street Church in Columbia. Although the committee was unable to make a final recommendation, Grier did state that the group favored week day instruction in Bible (State Board of Education 1948, 5). Another five months passed until the Committee released its final report on Bible courses in the public schools.

The Committee's report was presented to the State Board of Education during the April 15, 1949 scheduled meeting. The report opened by answering those who believed that the teaching of the Bible belonged in the home and the church. To counter this argument the committee replied in the report:

...but when we consider the enormous per cent of our population which never attends a church or Bible School of the church, and considering the vast number of our homes in which the Bible has no place, we realize the tremendous proportion of our people who go untaught in these matters. (State Board of Education 1949, 1)

The report continued by insisting "Great abuse has been done to the idea of the separation of church and state, a principle which we Americans heartily endorse; but this separation was never intended to divorce God and morality from a place of central authority in the social institutions of our nation" (State Board of Education 1949, 2). To justify the teaching of Bible, the report cited both Horace Mann and FBI Director J. Edgar Hoover's crime reports as an endorsement for moral education in public schools (State Board of

Education 1949, 2). Even though the Committee endorsed courses in Bible, the group was careful to not advocate the “sectarian teaching of the Bible” and instead acknowledged that the instruction should remain secular: “While such teaching will fall short of the evangelical message of Christianity, it should produce a type of citizen more worthy of the heritage we have as Americans” (State Board of Education 1949, 3). In closing its report, the Committee recommended that Bible teaching remain in South Carolina’s public schools under the following conditions: instruction should avoid denominational differences and doctrines, Bible courses remain optional, no state funds be used to pay the salaries for teachers of Bible, students who complete courses in Bible may receive one high school credit, Bible teachers acquire certification in the field of Social Science, local citizens choose teachers of Bible, and the location of Bible courses be determined by the local citizens and the Superintendent of Schools (State Board of Education 1949, 5). In light of the committee’s report the State Board of Education decided to host a public hearing on May 19, 1949, to allow citizens to present their views on the issue (State Board of Education 1949, 3). An April 25, 1949 press release from Anderson’s office, however, explained that the public hearing was canceled because of “...conflicting engagements making it impossible for some members of the State Board to attend” (Anderson 1949, 1). The possibility of rescheduling a public meeting was put off until the regularly scheduled State Board of Education meeting on May 20, where the matter was not addressed (Anderson 1949, 1).

Following the release of the State Board’s instructions for allowing courses in Bible, Anderson continued to receive correspondence pertaining to the topic. For instance, in a letter dated May 16, 1949, Rutherford Leon Edwards, a Hartsville High

School student, stated that Bible was his favorite subject and he hoped that the State Board of Education would not discontinue giving credit for the course (Edwards 1949, 1). In his response to Edwards, Anderson held that unless the Board took any further action schools would be allowed to operate as they had in the past, and therefore offer courses in Bible (Anderson 1949, 1). Despite the Board's conclusion, citizens and politicians continued to express their approval and disapproval of the Bible as a subject of instruction well into the 1950s.

The 1950s marked a return to conservatism in the United States. After the Second World War, American women exchanged the factory for the household, men returned to work, and religion remained a prominent fixture in culture and politics with the 1954 insertion of "under God" in the Pledge of Allegiance and the 1956 adoption of the national motto "In God We Trust." Even the ardent separationist, U.S. Congressman Bryson, submitted House Joint Resolution 382 in 1952 that proclaimed: "...That the President shall set aside and proclaim a suitable day each year, other than a Sunday, as a National Day of Prayer, on which the people of the United States may turn to God in prayer and meditation at churches, in groups, and as individuals" (Bryson 1952, 1). Bryson's resolution was adopted by the House and Senate and signed into law on April 17, 1952, eleven days before the *Zorach* decision was announced by the Supreme Court (Bryson 1952, 2).

The Supreme Court clarified its position on released time religious instruction programs further in *Zorach v. Clauson* (1952). Here the Justices ruled, 6-3, that although released time programs held on school grounds violated the First Amendment's Establishment Clause, such programs off campus were a way of accommodating the

religious needs of an increasingly pluralistic society. Once the *Zorach* decision was made public, both the *Greenville News* and *The State* carried articles, “Reading of Bible in School Attacked Before High Court” and “Released-Time Religious Education Upheld by Court,” addressing the verdict. Yet as with earlier Supreme Court decisions South Carolinians did not utilize the newspapers as a method of voicing their approval or disapproval of the *Zorach* ruling. Nevertheless, the lack of correspondence found in Jesse Anderson’s files after the decision does suggest that South Carolinians were more accepting of *Zorach* than *McCollum*.

In the decade following the State Board of Education’s decision to maintain courses in Bible and the Supreme Court’s decisions regarding released time religious instruction, South Carolinians found themselves in the midst of a major conflict sparked by the Supreme Court’s decisions in *Brown v. Board of Education I* (1954) and *Brown v. Board of Education II* (1955). Together these cases declared government-mandated, racially segregated public schools unconstitutional and called for their immediate integration. Following these decisions, South Carolina like many other southern states, resisted implementation of the Court’s orders. After the use of federal troops to integrate Central High School in Little Rock, Arkansas in 1957, the federal government and southern states fought pitched battles over school desegregation well into the 1960s. It is in this context that the Supreme Court handed down its controversial decisions in *Engel*, *Abington*, and *Murray*.

CHAPTER III

THE *ENGEL* DECISION

“...that a union of government and religion tends to destroy government and to degrade religion.” (370 U.S. 421, 5)
Mr. Justice Hugo Black, for the majority
Engel v. Vitale (1962)

In the latter part of the twentieth century the Supreme Court exercised substantial power in matters pertaining to public education and religion. This authority began with the incorporation of the Free Exercise Clause through the Fourteenth Amendment’s Due Process clause in the *Cantwell* decision of 1940, which allowed the High Court to apply the First Amendment to state and local actions. Following this monumental decision, in 1947 the Court declared in *Everson* that school districts could grant transportation reimbursements to parents who sent their children to parochial schools, and at the same time “incorporated” the no establishment clause. The Court continued to shape the role of religion in the public schools as it ruled on *McCullum* (1948) and *Zorach* (1952). In *McCullum* the High Court held that released time religious programs on school campus violated the Establishment Clause, while such programs off campus as addressed in *Zorach* (1952) were a constitutionally acceptable way of meeting the religious needs of an increasingly pluralistic society.

After the High Court’s verdict in *Zorach*, the nine justices took a ten year break from hearing cases pertaining to religion and the public schools. In the fall of 1961, however, the Supreme Court abandoned its silence when the justices granted a writ of

certiorari (a petition to the Supreme Court to review a case that has been decided by a lower court) to hear arguments in *Engel v. Vitale*, a case involving state-sponsored prayer in New York's public schools. Announced in 1962, the verdict proved to be one of the most controversial rulings ever rendered by the U.S. Supreme Court.

As mentioned in Chapter I, religion was a predominant fixture in public schools throughout the country prior to the *Engel* decision. According to Richard Dierenfield, (1962) religious exercises in public schools prior to 1962 were fairly common, though hardly universal. Despite Jewish objections to such practices, and a desire by Catholics for more religious activities, most Protestants supported these symbols of what they believed to be the common Christian heritage of the United States (Dierenfield 1962, 2-3). Dierenfield points out that before *Engel*, daily devotional exercises like prayer, Bible reading, and hymn singing were popular throughout the country. For instance, over 60% of the schools along the East coast participated in these activities (Dierenfield 1962, 53-55). It was during this period of widespread religious practices in public schools that *Engel v. Vitale* originated.

Construction and Implementation of the Regents Prayer

The roots of *Engel* date back to the 1950s. Following the Second Great War, mainstream America embraced conservative religious values that found a home in the growing suburbs. Yet, the decade also witnessed many turbulent events like the on-going conflict in Korea, Joseph McCarthy's controversial hunt for Communists in American government, and an increase in juvenile delinquency. It is in this context that the New York Board of Regents, the governing body over educational matters in the state, sought the creation of a uniform prayer for public schools. After all, as Bruce Dierenfield points

out, prayer and Bible reading were not abnormal practices during this time (Dierenfield 2007, 67). In the wake of New York City's public schools rejecting the Lord's Prayer, the Regents wanted an exercise that would include moral and spiritual training and would provide children with a "respect for lawful authority and obedience to law" (Dierenfield 2007, 67). Furthermore, the Regents justified the prayer by holding:

In our opinion, the securing of the peace and safety of our country and our State against such dangers points to the essentiality of teaching our children, as set forth in the Declaration of Independence, that almighty God is their Creator, and that by Him they have been endowed with their inalienable rights of life, liberty and the pursuit of happiness. (Butler 1961, 21)

Therefore in order to best reflect New York's religious composition in the 1950s, which included: "...50 percent Catholic, 25 percent Jewish, 20 percent Protestant, and 5 percent unidentified...", a group of priests, rabbis and ministers formulated the following nondenominational prayer in 1951: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country" (Dierenfield 2007, 67). The prayer was then approved by the thirteen members of the New York Board of Regents with little concern over its potential violation of the First Amendment's Establishment Clause. The prayer was then published as part of the "Statement on Moral and Spiritual Training in Schools" as the Regents believed "... that this statement will be subscribed to by all men and women of good will..." and then introduced to local public school districts (Boles 1965, 187). School districts then had the choice to either adopt or reject the Regents prayer. There was, however a catch. If a school district encouraged prayer, that district was required to use only the Regents prayer (Dierenfield 2007, 67-68).

Initially the Regents prayer received overwhelmingly strong support from various political and religious leaders throughout New York. For instance, Governor Thomas Dewey, an Episcopalian, encouraged the prayer as a "...means of defeating 'the slave world of godless communism'" (Dierenfield 2007, 68). Similarly the New York Association of Judges of Children's Courts, the New York Association of Secondary School Principals, and the Directors of the New York School Boards Association found that the prayer inculcated morality and combated vices such as drugs and alcohol (Dierenfield 2007, 68). Echoing the political encouragement, most Protestants and Catholics in New York also endorsed the prayer. The support was best summed up by John Brosnan, a lawyer who chaired the New York Board of Regents: "The only criticism [of the prayer] came from those who do not believe in God" (Dierenfield 2007, 68).

Despite the seemingly widespread approval of the Regents prayer, pockets of hostility emerged. For example, the *Christian Century*, a liberal Protestant magazine, held that the prayer provided little spiritual significance. Similarly, educational groups such as the New York Teachers Guild, Citizens Union, and United Parents Association believed that the prayer was inappropriate in a public school setting. Likewise, Jewish organizations like the American Jewish Congress, the Synagogue Council of America, and New York Board of Rabbis, believed the prayer violated the metaphoric wall of separation between church and state. The ACLU and its New York chapter also remained skeptical over the constitutionality of the prayer and secured multiple public hearings before the New York City Board of Education to discuss the matter further. The hearings resulted in the removal of the Regents prayer from New York City's public schools,

however, the city did retain other daily practices that could be interpreted as running afoul of the First Amendment. These practices endorsed by New York City's public schools included reading the Bible reading without comment, recitation of the Pledge of Allegiance, and the singing of the first and fourth stanza of "America" (Dierenfield 2007, 68-70).

Despite the political approval, by 1955 only seventeen percent of New York's nine hundred school districts had adopted the prayer. The majority of the school districts that implemented the prayer were located in the small communities of upstate New York. On Long Island, however, six of the sixty-one school districts chose to adopt the prayer. Among these six school districts was Herricks Union Free School District Number Nine, located in New Hyde Park, New York. As a part of the greater Nassau County, this four mile school district was the birth place of one of the most important cases to ever reach the Supreme Court (Dierenfield 2007, 71-72).

Herricks School District and the Regents Prayer

In 1959, Nassau County's religious composition was a microcosm of the state. As Bruce Dierenfield explains, appropriately 23 percent of residents identified themselves as Catholic, 18 percent of residents identified themselves as Protestant, and 16 percent of residents identified themselves as Jewish. Dierenfield does not, however, address the religious preferences of the remaining 43 percent of residents in the county. Nevertheless, the increase of the Jewish population, combined with the rapid population growth on Long Island, following World War II, produced overcrowded schools and friction among the various religious denominations. Much of the friction between parents came from Catholics who sent their children to Catholic parochial schools and resented the fact that

they had to contribute, via public taxes, to the public school system. Therefore, the public schools enrolled mainly Protestant and Jewish children. The desperate need for more school classrooms to meet the demands of an increasing population and problems in construction only exacerbated conflicts between religious groups (Dierenfield 2007, 71-76). In the years leading up to the *Engel* case, more religious conflicts ensued around Herricks School District. For instance in 1956, neighboring New Hyde Park School District Number Five attempted to post an “interdenominational” version of the Ten Commandments in every classroom throughout the district, a choice which was met with hostility by Jewish citizens, and eventually aborted. Furthermore, in 1958 the New Hyde Park School Board prohibited the discussion and singing of Hanukkah songs during the month of December (Dierenfield 2007, 77-79). It is in this political and religious turmoil that school boards throughout New York decided to adopt or reject the Regents prayer.

Since the creation of the Regents prayer in 1951, some New York school boards, including neighboring New Hyde Park, had endorsed and implemented the prayer. In 1958 the Herricks School Board was still contemplating whether to endorse the prayer. Herricks had a long tradition of including religious activities in the public schools such as, released time religious programs off school campus, singing of Christmas carols, and incorporating local clergymen in school practices. After an election reorganized the five-member Herricks School Board to include a majority of Catholics, including attorney William Vitale, Jr., the Board approved use of the prayer on July 8, 1958 (Dierenfield 2007, 79-81). With the adoption, the Regents mandated that a teacher, or teacher-selected student, lead the class in saying the prayer aloud at the start of the day (Butler 1961, 4). Furthermore, the Herricks Board decided that the prayer should precede the Pledge of

Allegiance, which by that time included the “under God” phrase. In consenting to the Regents prayer, the Herricks Board said that school employees could not instruct children how to pray, or berate children who did not pray, and could excuse children who did not want to be present during the prayer. In the four years of implementation, between 1958 to 1962, the Regents prayer experienced both successes and failures in Herricks’ district schools. During this time teachers and students observed and commented on the actions of one another. For instance, some students and teachers noted that both participated in the prayer. While other students contended that some teachers refused to participate in the prayer and were often unfamiliar with the words. Additionally, both teachers and students mentioned that classroom management issues arose during the four years of the prayer’s implementation as students, knowing that they could not be forced to say the prayer, often acted out during the classroom recitation (Dierenfield 2007, 81-85).

The Origin of *Engel v. Vitale*

Only two months after adopting the Regents prayer, one parent in the district, Lawrence Roth, sought the counsel of the New York Civil Liberties Union (NYCLU). Roth, a former Jew and self-described religious person, had one son who attended elementary school and one son who attend junior high school in the Herricks School District. With the assistance of the NYCLU, Roth obtained the counsel of a young lawyer, William Butler. Butler’s appointment to the case was poignant. As the grandson of Irish immigrants, Butler’s Catholic upbringing allowed the NYCLU to present the issue not as an attack on prayer, but instead an opportunity to defend religious liberty. Butler was assisted by other members of counsel including Stanley Geller and, most notably, Leo Pfeffer, a highly respected attorney with expertise on church-state issues.

On advice from Butler, Roth located other plaintiffs disturbed over the Regents prayer: Steven Engel, a devout Reform Jew; Daniel Lichtenstien, a Jew; Monroe Lerner, a Jew; and Lenore Lyons, a Unitarian (Dierenfield 2007, 86-101). By September 1958, Herricks County School Board hosted an open meeting to address the Regents prayer. During the meeting Board President William Vitale defended the prayer as a means of promoting morality. Furthermore, he supported the prayer because of its non-compulsory nature which allowed students to opt-out with parental consent (Dierenfield 2007, 101-02). In another meeting held in October, tempers flared again as disgruntled parents criticized the prayer. In response Vitale told the audience: “The board has voted on this. If we say it’s in, it’s in” (Dierenfield 2007, 102). Vitale continued to stoke the embers by daring the audience to “sue us” if they wanted to discontinue the prayer (Dierenfield 2007, 102). With the five petitioners assembled and an increasing antagonism between the Herricks County School Board and disgruntled parents, the NYCLU took action.

The NYCLU’s first step towards removing the Regents prayer came in the form of a written request mailed to the Herricks School Board in December 1958. When the School Board failed to respond, it was served legal papers (Dierenfield 2007, 103-04). In response to the lawsuit, Vitale maintained that the prayer was legal and referred to the plaintiff’s objective as “...an attack calculated to undermine our American heritage” (Dierenfield 2007, 104). With the lawsuit pending, Herricks School Board received letters in support of the prayer at a ratio of two hundred to one. With such an overwhelming support behind the Regents prayer, a third party composed of Catholics, Jews, and non-believers united to keep the prayer in the public schools. Known as the intervenors, these parents with their attorney Porter Chandler, a close friend to the

outspoken Catholic, Francis Cardinal Spellman, joined the *Engel* case (Dierenfield 2007, 109-10).

On February 24, 1959, *Engel v. Vitale* was argued before the young, fairly inexperienced New York trial judge Bernard Meyer. Butler, who argued the case on behalf of the plaintiffs, held that the Regents prayer was a violation of both the Establishment Clause and the Free Exercise Clause of the First Amendment. Bertram Daiker, the Herricks School Board's attorney, countered Butler's claim saying that the state has an obligation to instill moral and spiritual values in children. Furthermore, Daiker asserted that the prayer's non-compulsory nature allowed both school districts and children to exercise their First Amendment rights. Chandler, the intervenors' attorney, supported Daiker's stance that the non-compulsory nature of the prayer provided protection for those wishing to abstain. He also conceded that if the plaintiffs had felt offended by the prayer, they would use the legal system to obtain damages. The plaintiffs in this case were not seeking damages. After hearing the attorneys, Meyer issued his verdict on August 24, 1959. In a sixty-seven page opinion, Meyer sided with the school board, believing that the non-sectarian and voluntary nature of the prayer did not violate the First Amendment (Dierenfield 2007, 106-15). He further supported his position by asserting: "The recognition of prayer is an integral part of our national heritage" (Dierenfield 2007, 116). The lengthy opinion did, however, provide ground for Butler's appeal. In his acceptance of the prayer, Meyer ordered the school board to protect the rights of students who did not participate in the prayer. In reading Meyer's judgment, Butler believed that any prayer recited in a public school could never guarantee Meyer's requirement of protection because the mere acceptance of prayer in a public school is

compulsory in nature. It is with this argument that Butler appealed Meyer's verdict to the New York Supreme Court Appellate Division, Second Department (Dierenfield 2007, 116-17). While a second decision was pending, the Herricks School Board adopted three new regulations to comply with Meyer's ruling and to ease the tension with disgruntled parents. Adopted on September 3, 1959, and then shared with school officials, teachers, parents, and local taxpayers, the Board held that:

1. Neither teachers nor any school authority shall comment on participation or non-participation in the exercise nor suggest or request that any posture or language be used or dress be worn or be not used or not worn. 2. Provision is to be made for those children who are to be excused from participating or from the room during the prayer exercise. 3. Any child may be excused on written request of the parent or legal guardian and all parents will be so advised that the request should be so made, addressed to the principal of the school which the child attends. (Butler 1961, 6)

In October of 1960, the New York Supreme Court Appellate Division, Second Department, issued its ruling. Four out of the five judges affirmed Meyer's decision. The fifth judge disagreed with parts of Meyer's ruling, but still supported the prayer believing that it did not "...constitute religious teaching" (Dierenfield 2007, 117). With two courtroom defeats, Butler once again appealed his case to New York's highest court, the Court of Appeals. On July 7, 1961, the appellate judges released their majority opinion in favor of Herricks School Board (Dierenfield 2007, 117-18). Despite the ruling, it was in this court room that Butler and the plaintiffs received a glimmer of hope. Two of the dissenting judges on New York's Court of Appeals considered the prayer: "a form of State-sponsored religious education" (Dierenfield 2007, 118). With two justices finding the Regents prayer a violation of the First Amendment, Butler petitioned the Supreme Court of the United States.

The Supreme Court Hears *Engel v. Vitale*

In his brief submitted to the High Court, Butler stated the underlying question in *Engel*:

Does not State action requiring that a prayer to God, composed by State officials, acting in their official capacity, be said as a daily procedure, following the Pledge of Allegiance to the Flag, in all the public schools of a local school district, violate the guarantee of separation of church and state in the Establishment Clause of the First Amendment to the United States Constitution, made applicable to the States by the Fourteenth Amendment? (Butler 1961, 3)

The brief continued by asserting: “The Regents’ Prayer is sectarian and denominational, since it includes a declaration of belief in the existence of God...” (Butler 1961, 7).

Furthermore, as described by Butler, the prayer was not part of any national heritage, but instead its purpose was to “...introduce religious education and observances in public schools” and it served only to “...aid religion” (Butler 1961, 6-7). In summarizing his argument, Butler stated: “In the present case, not only are the pupils compelled to attend school to obtain a secular education, but also, when they attend, they are compelled to participate in the saying of the Regents’ Prayer, *unless their parents request that they be excused*” (Butler 1961, 31). The petition ends with a reference to Jefferson’s “wall of separation” metaphor: “That wall, we submit, the State action under consideration in this case threatens not merely to breach, but to undermine completely” (Butler 1961, 33). With the brief submitted, the justices of the Supreme Court had to debate whether to grant a writ of certiorari to hear the case.

Upon receiving Butler’s petition, Justice Hugo Black showed the most interest in hearing the case. Black, who wrote the majority decision in *Everson*, took on the task of convincing his colleagues to grant a writ of certiorari. His task of persuading his

colleagues was not easy, as Justices Stewart and Whittaker both agreed with the lower court's ruling, and Chief Justice Earl Warren "...believed that the regents' prayer was as harmless as the Pledge of Allegiance" (Dierefield 2007, 120). Black, nevertheless, prevailed and in a seven-to-two vote (four votes are necessary) the Supreme Court placed *Engel* on the docket for 1962.

Oral arguments for the case were set to begin on April 3, 1962, but by this time the composition of the Court had changed: Justice Whittaker had resigned and his replacement, Bryon White, was still awaiting Senate confirmation. So with just eight justices and a court room filled with nuns and seminary students, presumably from Georgetown University, the Court heard appeals from the attorneys (Dierenfield 2007, 120-22). Butler, as the attorney for the petitioners, presented his case first. During his address he and the justices bantered back and forth. During a particular point in Butler's argument, Justice Frankfurter interrupted to ask: "Is it your position that our public schools, by virtue of our Constitution, are frankly secular institutions?" To this Butler answered, "Absolutely, yes" (Dierenfield 2007, 124). In defending the prayer, Daiker, the Herricks School Board's attorney, held "...that the prayer was not religious instruction, but religious expression, which is guaranteed by the First Amendment" (Dierenfield 2007, 125). Moreover he asserted: "We are not trying here in the Herricks School District to teach religion...any more than...the prayer used in this Court" (Dierenfield 2007, 125). Chandler, reinforced Daiker's argument by stressing that the intervenors were merely seeking the protection of the Free Exercise Clause of the First Amendment which would allow them to continue the practice of the Regents prayer (Dierenfield 2007, 126-27). With oral arguments completed, the Justices debated the question of state-sanctioned

prayer in a public school. Just two days after oral arguments concluded, Justice Frankfurter suffered a stroke and was unable to vote in the final decision. The remaining seven justices discussed the issues of the case and quickly came to their decision. Justice Black, with the approval of Chief Justice Warren, offered to write the majority opinion (Dierenfield 2007, 127-29). On June 25, 1962, the U.S. Supreme Court released its ruling, and the nation was shocked.

The High Court's Decision in *Engel v. Vitale*

In a six-to-one decision, the U.S. Supreme Court boldly declared: “We think that by using its public school system to encourage recitation of the Regents prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause” (*Engel v. Vitale*, 1962, 2-3). Black’s majority opinion, which was supported by Chief Justice Warren and Justices Clark, Brennan, and Harlan, continued to attack the composition of the prayer by saying “...in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government” (*Engel v. Vitale*, 1962, 3). Furthermore, although the prayer remained non-compulsory and those who objected to the prayer retained the option of leaving the room, Black contended that this option highlights “...the essential nature of the program’s constitutional defects” (*Engel v. Vitale* 1962, 4). Similarly, in justifying why the prayer violated the Establishment Clause and not the Free Exercise Clause Black responded: “The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not” (*Engel v.*

Vitale 1962, 5). Furthermore, he said: “When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain” (*Engel v. Vitale* 1962, 5). Throughout the majority argument, Black used a particular historical framework to justify his position by tracing the desire for religious liberty as seen through the establishment of the British colonies in North America, to Jefferson’s “Virginia Bill for Religious Liberty,” to the ratification of the Bill of Rights. In closing his opinion, Black addressed those who condoned prayer in public schools by quoting James Madison’s “Memorial and Remonstrance Against Religious Assessments”: “[I]t is proper to take alarm at the first experiment on our liberties...” (*Engel v. Vitale* 1962, 6).

Although the majority decision clearly found that the Regents prayer violated the no establishment clause, Black was careful in his argument to not assert that all school rituals and documents referring to a Supreme Being breached the wall of separation. For instance, in a footnote Black mentions that school children have every right to: “...express love for our country by reciting historical documents such as the Declaration of Independence...or by singing officially espoused anthems..” both of which refer to a deity or a belief in a Supreme Being (*Engel v. Vitale* 1962, 11). Therefore, even though state-sanctioned prayer was declared unconstitutional, the recitation of the Pledge of Allegiance, the singing of “America,” and the discussion of the Declaration of Independence in public school classrooms were ruled to not be a violation of the Establishment Clause as they reflect a common American heritage and promote patriotism.

Even though Justice Douglas agreed with the majority decision, he penned his own concurring opinion. Differing from Black, the question presented by Steven Engel and his friends was narrow in scope for Douglas. The ultimate question, Douglas wondered was: "...whether New York oversteps the bounds when it finances a religious exercise" (*Engel v. Vitale* 1962, 12). After reviewing the arguments, Douglas believed that the plaintiffs could not demonstrate any element of compulsion. Furthermore, he compared the Regents prayer to other religious acts in the U.S. government such as the Crier convening the Supreme Court with "God save these United States and this honorable court" and the prayers said at the opening session of Congress. In each of these situations "...the person praying is a public official on the public payroll, performing a religious exercise in a governmental institution" (*Engel v. Vitale* 1962, 12). He also claimed that the audience in each scenario is a "'captive' audience" (*Engel v. Vitale* 1962, 12). Thus, Douglas contended that if the Court found the Regents prayer a violation of the Establishment Clause, the justices could also find the daily practices at the opening of the Supreme Court and Congress unconstitutional. Then contradicting himself, Douglas avowed: "...I cannot say that to authorize this prayer is to establish a religion... Yet once government finances a religious exercise it inserts a divisive influence into our communities" (*Engel v. Vitale* 1962, 12). Holding that the Regents prayer allowed New York's public schools to inculcate religion, Douglas believed that the practice undermined the no-establishment clause. In closing his concurring opinion, he referred back to *Everson v. Board of Education of Ewing Township* (1947), where the Court supported transportation reimbursements for parents who sent their children to parochial schools. Douglas, who had voted with the majority in *Everson*, deduced that in light of

Engel, the distribution of transportation reimbursements to parents who send their children to parochial schools was now unconstitutional. Changing his opinion, Douglas agreed with Justice Rutledge who in his dissent believed that the *Everson* decision was “out of line with the First Amendment” (*Engel v. Vitale* 1962, 13).

Therefore to summarize, the Court ruled under Black that the endorsement of religion by any legislative, administrative, or regulation violates the Establishment Clause. While under Douglas the Court held that the use of public money for the support of any public institution which sanctions religion violates the no-establishment clause (Boles 1965, 196-97).

The lone dissenter in *Engel* was Potter Stewart who flatly stated: “I think this decision is wrong” (*Engel v. Vitale*, 1962, 16). He believed that the voluntary nature of the Regents prayer provided protection from the Establishment Clause, saying:

With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an “official religion” is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation. (*Engel v. Vitale* 1962, 16)

Believing that the feelings of the majority must not be compromised for the sake of the minority, Stewart continued his argument by criticizing Black’s opinion and the use of the “wall of separation” metaphor, a phrase which is absent from the Constitution. Coincidentally, Stewart was not the first Supreme Court Justice to question Jefferson’s metaphor. Justice Stanley Reed shared a concern over the dependence on the metaphor in his dissenting opinion in *McCullum* (Dreisbach 2002, 104). Here Reed quoted Thomas Jefferson who asserted: “A rule of law, should not be drawn from a figure of speech” (*McCullum v. Board of Education* 1948, 17).

As Stewart continued his dissent, he appealed to history: “What is relevant to the issue here is not the history of an established church in sixteenth century England or in eighteenth century America, but the history of the religious traditions of our people, reflected in countless practices of the institutions and officials of our government” (*Engel v. Vitale* 1962, 17). Echoing Douglas, Stewart listed examples of America’s strong ties to religion such as the crier opening the Supreme Court, the third stanza of the National Anthem, the phrase “one Nation under God” in the Pledge of Allegiance, the motto “IN GOD WE TRUST” impressed on coins, and the presidential oath of office (*Engel v. Vitale* 1962, 17-18). In critiquing Douglas’ stance that public monies cannot be used to finance religion, Stewart, in a footnote, replied: “The official chaplains of Congress are paid with public money. So are military chaplains. So are state and federal prison chaplains” (*Engel v. Vitale* 1962, 20). Stewart concluded his dissent by maintaining that the everyday actions of the Congress, Supreme Court, President, and state of New York reflect the religious customs of the country. He opined:

What each has done has been to recognize and to follow the deeply entrenched and highly cherished spiritual traditions of our Nation - traditions which come down to us from those who almost two hundred years ago avowed their “firm Reliance on the Protection of divine Providence” when they proclaimed the freedom and independence of this brave new world. (*Engel v. Vitale* 1962, 17-18)

Reactions to the *Engel* Ruling

News of the Supreme Court’s verdict spread like wildfire. In commenting on the ruling John F. Kennedy, the first Catholic president, supported the decision as a means of maintaining the separation between church and state. The *Columbia State* article, “Kennedy Supports High Court Ruling,” reported Kennedy’s position:

I would think that it would be a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity, and we can make the true meaning of prayer much more important to the lives of all of our children. (Associated Press 1962, 1-A)

Understanding that citizens would express varied opinions to the Court's edict, Kennedy urged Americans to abide by the Court's decision. He asserted:

The Supreme Court has made its judgment, and a good many people obviously will disagree with it. Others will agree with it. But I think that it is important for us if we are going to maintain our constitutional principle that we support the Supreme Court decisions even when we may not agree with them. (Associated Press 1962, 3)

As the President continued to show his support for the ruling, other citizens viewed the decision as a way of promoting religious liberty. For example, Martin Buber, a Jewish mystic and theologian believed that school-sanctioned prayer had a long-lasting impact on non-Christian students. Buber remembered what it was like as a Jew to experience Christian rituals at school:

The obligatory daily standing in the room resounding with the strange service affected me worse than an act of intolerance could have affected me. Compulsory guests, having to participate as a thing in a sacral event in which no dram of my person could or would take part, and this for eight long years morning after morning: that stamped itself upon the life-substance of the boy. (Fraser 1999, 220)

Reveling in the victory, the NYCLU called upon its ACLU affiliates in other states to bring forth additional First Amendment cases such as "...Christmas and Hanukkah observances, Bible reading, Lord's Prayer recitations, and baccalaureate services..." (Dierenfield 2007, 133). Praise for the decision was also echoed by Baptists. When referring to the *Engel* case, C. Emanuel Carlson, Executive Director of the Baptist Joint Committee on Public Affairs stated: "...true friends of 'genuine prayer experience must

obviously be cautious about the devising of prayers by governmental agencies” (Boles 1965, 254). He continued: “When one thinks of prayer as a sincere outreach of a human soul to the Creator, ‘required prayer’ becomes an absurdity” (Boles 1965, 254).

Ultimately, Carlson stressed the continued need for religious liberty and separation between church and state by saying:

The issues of our day, including the problems of Communism and secularization, will not be solved by the prayer formulas set up by official agencies. As Americans we must go deeper than legislation and conformity in order to meet the call of God upon us in our day. (Boles 1965, 254-55)

Just as Baptists and Jewish groups commended the Court’s adherence to “a strict separationist” doctrine, so too did Sterling M. McCurrin, the United States Commissioner of Education in 1962. When questioned about the *Engel* decision McCurrin said: “I believe it is no loss to religion but may be a gain in clarifying matters. Prayer that is essentially a ceremonial classroom function has not much religious value” (Boles 1965, 273).

By far, the most constant and vocal response came from Americans who protested the *Engel* decision. For instance, one study found that in the forty-two largest metropolitan areas that commented on the *Engel* ruling, the majority of people living in the cities were overwhelmingly against Black’s opinion. Additionally, a nationwide Gallup poll indicated that some 85 percent of Americans disagreed with the verdict. Hostility towards the ruling also appeared in newspapers that ranged from Los Angeles to New York, and Atlanta to Boston. Disapproval was equally voiced by former presidents. For example, in the *Greenville News*’ “Calls to Legalize Prayer in Schools Arise in Congress” former President Herbert Hoover believed that the: “interpretation of the

Constitution by the Supreme Court on prayer in our schools is a disintegration of one of the most sacred of American heritages” (United Press International 1962, 1). Hoover went further to encourage Congress to “...submit an amendment to the Constitution which establishes the right of religious devotion in all governmental agencies-national, state or local” (Associated Press 1962, 2-A). Likewise, former President Dwight D. Eisenhower avowed: “I always thought that this nation was essentially a religious one” (Associated Press 1962, 2-A). Eisenhower continued by tracing America’s religious heritage to the Declaration of Independence. He declared: “I realize, of course, that the Declaration of Independence antedates the Constitution, but the fact remains that the Declaration was our certificate of national birth. It specifically asserts that we as individuals possess certain rights as an endorsement from our common Creator- a religious concept” (Associated Press 1962, 2-A). Similar sentiments were also expressed by educational leaders such as Harvard Law Dean Erwin Griswold who believed that the Court misapplied the Establishment Clause in the case, as Congress had not made a law mandating the recitation of the Regents prayer. Furthermore, Griswold believed that the students’ recitation of the prayer was protected under the Free Exercise Clause of the First Amendment. Similarly John Satterfield, president of the American Bar Association, held that the prayer was a reasonable method of illustrating America’s close ties to religion (Dierenfield 2007, 134-38). Some of the nationwide criticism also stemmed from Black’s structure of the majority argument and his negligence in citing any case to support his ruling (Dierenfield 2007, 130-31). In his volume, *Separation of Church and State*, Robert Cord asserts:

The holdings of the United States Supreme Court, over the long run, tend to stand or fall more on their rationale...the Court’s written opinion must present a

credible and convincing argument for the Court's decision *in order to legitimize that decision...* To present no reasonable argument...is to invite scorn for the Court... (Cord, 1988, 160)

Not surprisingly, the bulk of the criticism was aimed squarely at Hugo Black.

Historical research shows that Black's true intentions of hearing the *Engel* case may have been influenced by his one-time affiliation with the Ku Klux Klan. Philip Hamburger argues in *Separation of Church and State* that Black had long ties with the anti-Catholic organization that presumably helped him win one of Alabama's U.S. Senate seats and receive an appointment to the U.S. Supreme Court. When news of Black's potential ties to the Klan became public knowledge, he denied any affiliation with the organization, and accused Catholics of starting the rumors (Hamburger 2002, 422-34). Although Catholics had complained about Protestant practices in the early public schools, they later expressed concern about "godless" schools. Thus, it could be assumed that Catholic leaders came to support "nonsectarian" religious practices, such as the Regents prayer, that became fixtures in many public schools.

Following the June 25, 1962, decision few persons were as vocal as South Carolinians in expressing their opinions of the verdict and the justices. From U.S. Senators to the Superintendent of Education, local citizens to religious figures, South Carolinians willingly voiced their opposition and support for the High Court's decision regarding state-sanctioned prayer in the public schools.

CHAPTER IV

SOUTH CAROLINA RESPONDS TO *ENGEL*

“...the court has now officially stated its disbelief in God Almighty. This, to me, represents the most serious blow that has ever been struck at the Constitution of the United States.”

U.S. Congressmen L. Mendel Rivers (D-SC)

The 1960s was a decade marked by numerous political and social transformations. In South Carolina, specifically, it signaled the decline of the country farmer and the emergence of the metropolitan elite (Edgar 1998, 532-35). The Palmetto State’s good fortune was noted by Governor Ernest “Fritz” Hollings in his January 12, 1960 address before the General Assembly where he alluded to salary increases for higher education and public school faculty and expanded research programs at the two predominant universities of the state: University of South Carolina and Clemson. Furthermore, with a balanced budget at hand, Hollings praised the state penitentiary workers and the tourism industry (Hollings 1960, 1-12). Despite the state’s industrial growth and the possibility of an increase in teacher salaries, South Carolina’s system of public education was still struggling. In a speech before the South Carolina Education Association, Governor Hollings conceded that between 1960 and 1961, South Carolina had the highest percent of selective service registrants fail the intelligence exam. Furthermore, he also admitted that the state ranked next to last in per-pupil expenditures in 1961 (Hollings 1961, 1-2). With such dismal records in testing and per-pupil expenditures, the Governor sought to

consolidate all state educational agencies to form the State Department of Education (Hollings 1961, 1). It is in this period of expansion that the Supreme Court of the United States granted a writ of certiorari to hear *Engel v. Vitale*.

Despite the on-going transformations in business and education, the Palmetto State remained committed to the importance of religion in the years prior to the *Engel* decision. For instance, in his July 2, 1961 sermon “This Nation Under God” delivered in front of Columbia’s First Baptist Church, Dr. Archie Ellis inferred that anti-religious rulings of the High Court could be construed as supporting atheism, an argument which was utilized in the aftermath of *Engel*. The case referred to in Ellis’ sermon was *Torcaso v. Watkins* (1961), in which the Court declared religious tests for public officials to be unconstitutional (*Torcaso v. Watkins* 1961, 3). In response to the High Court’s decision, Ellis asserted: “...these gentlemen have placed official sanction and have given official status up-on [*sic*] a new religion in America-ATHEISM” (Ellis 1961, 3). He continued his sermon by listing some of America’s long-standing religious traditions such as the Declaration of Independence, the inscription of “In God We Trust” on coins, and the opening call of the Crier of the U.S. Supreme Court. In closing his speech, Ellis asserted that the only way to overpower the Supreme Court’s ruling was to have a resounding faith and belief towards God (Ellis 1961, 4-8). In response to Ellis’ sermon, the future governor of South Carolina Donald Russell opined: “I fear for the future of a nation whose courts would depreciate the supreme importance of religious faith and the moral, political, and spiritual stability of that nation” (Russell 1961, 1).

South Carolina’s conservative and religious roots were also evident in documents and events in the months prior to the *Engel* decision. In the January 26, 1962 meeting of

the State Board of Education, members discussed a written request from the American Legion post in Sumter and the Veterans of World War I group in Cayce. Both groups requested that the Pledge of Allegiance and National Anthem be recited in public school classrooms everyday to encourage patriotism. In responding to the request, the Board informed both groups that schools, for the most part, were already conducting these activities and that the issue should be discussed at the local, not state, level (State Board of Education 1962, 4). In adhering to the state rights philosophy, Superintendent of Education Jesse Anderson and the Board of Education reaffirmed the importance of local control in matters of education. In the months before the *Engel* decision was announced, South Carolina's political and social climate, like many Southern states, was teeming with racial tensions that accompanied the Supreme Court's 1954 and 1955 decisions to integrate the public schools. Calling for an end to segregated public facilities, protestors participated in sit-ins throughout Charleston, Greenville, and Rock Hill. In the midst of this turbulent time and on the eve of the *Engel* verdict, South Carolina's General Assembly passed a concurrent resolution in February of 1962 to fly the Confederate Flag atop the State House dome to commemorate the centennial anniversary of the Civil War (Edgar 1998, 535-38). It is in this environment of increasing racial tensions and under a strict adherence to the state rights philosophy that South Carolina's citizens, religious leaders, and politicians responded to the Supreme Court's ban on state-sanctioned prayer in *Engel v. Vitale*.

Social Reactions to *Engel*

On April 3, 1962, the day oral arguments commenced in *Engel*, the *Greenville News* published the following prayer on the front page:

Our Eternal Father, we would pause at this time for prayer not so much to tell Thee things about ourselves, but to let Thee catch up with us as we stop our “business” and feverish haste. Breathe Thy Spirit into our hearts. Forgive where we have sinned. Strengthen where we are weak. Guide us into Thy perfect light. Amen. (Greenville Christian Ministers’ Association 1962, 1-A)

The prayer, not only highlights the public presence of religion in South Carolina, but also prefaces the strong reaction to the *Engel* verdict. In observing South Carolina’s deep respect for religion, especially religious exercises in public schools, it is interesting to note that *Columbia’s State* was the only major newspaper in April to include an article informing citizens of the *Engel* case. The article, “Unconstitutional? High Court Hears Attack on Praying in Schools,” detailed the facts of the case and did not provide the thoughts of any Carolinians to the issue of state-sanctioned prayer in the public schools. The muted response of South Carolinians to the oral arguments in April was overshadowed by the outcry following the release of the verdict on June 25, 1962.

One day after the verdict was shared with the public, South Carolina’s major newspapers informed the citizens of the state. Emphasized with bold headlines, the newspapers included articles from the Associated Press that outlined Justice Black’s majority opinion and Justice Stewart’s dissent. Comments from state politicians, like Attorney General Daniel McLeod and P.H. Bomar, an executive in the State Department of Education, were interspersed in the *Greenville News*’ “Momentous Ruling By Supreme Court in New York Case” and *Columbia State’s* “Supreme Court Bans Prayers in Schools” (Associated Press 1962, 1). In both articles, McLeod was quoted to be in “vigorous disagreement” with the decision (Associated Press 1962, 1-A). Furthermore the Attorney General affirmed that South Carolina lacked any regulation on the subject, and in fact the closest regulation was Title 59, Section 21-23 of the Code of Laws that

outlawed “sectarian or partisan books or instruction in the schools” to which the *Columbia State* and the *Greenville News* were quick to clarify “...does not bar the teaching of Christianity, Bible or other elective subjects” (Associated Press 1962, 1-A). Furthermore, Bomar reiterated South Carolina’s tradition of keeping educational matters under local authority by asserting: “The state’s school system includes about 20 thousand classrooms and...the matter is up to the classroom teachers in most cases” (Associated Press 1962, 11-A). In the immediate days following the Court’s edict, reaction across the state as detailed in numerous newspaper articles, highlighted a deep resentment regarding the decision.

In the Midlands, local school officials commented on daily religious practices in public schools via “School Officials, Ministers Voice Opinions on Ruling.” For example, Guy Varn, Superintendent of Columbia Schools said: “teachers have been encouraged to conduct devotional exercises. Up to now it has never been a controversial question with us” (Walker 1962, 1-B). Similar sentiments were shared by Cyril Busbee, Superintendent of Brookland-Cayce Schools, who firmly declared “we have no immediate plans to change,” along with local principals Robert Beckham of Crayton Elementary, John Overton of Hand Junior High, and Rogert Kirk of Columbia High, who all adamantly stated that daily devotionals would continue in public school classrooms, regardless of the verdict (Walker 1962, 1-B/3-B).

In the Low-Country, the reactions of public school leaders were evident in the *Charleston News and Courier’s* article “Prayer Here to Continue.” In the article Superintendent C.E. Williams of St. Andrews School District 10 remarked:

We have the scripture read and the Lord’s prayer in every school room in St. Andrew’s school system daily...A child of any faith may bring and read from his

own Bible any scripture passage he wishes...This is the policy-the way it has been observed and the way it will be in the future. (1962, 1-B)

Edward O'Sheasy, James Island's District 3 Superintendent, expressed the sentiment:

"We have Bible reading, prayer...I am concerned for the future of the country when we reach the point that any mention of Christianity must be omitted from the public schools"

(1962, 1-B). In supporting the autonomy of classroom teachers, John Wallace,

Superintendent of St. John's School District 9, stated: "It is left up to the individual

classroom and teacher as to what to do concerning prayer" (1962, 1-B). Differing from

Wallace, Superintendent of Moultrie School District 2, W.C. Hutchinson, lambasted the

six justices who voted with the majority saying: "I think we have some old men on the

Supreme Court that should have been retired a long time ago" (1962, 1-B). The dissent

from the decision was also evident in the *Charleston News and Courier's* article "The

Court and Prayer: Ruling Strongly Opposed," in which M. Pickney Seabrook, a teacher

with James Island High School, compared the religious composition of New York and

South Carolina. In contrasting the two states she said: "...we have a majority of

Protestant students, so there aren't many who would object to prayers in school" (Lofton

1962, 3-B). Furthermore, the article also included the reaction of one person who agreed

with the ruling. Here a local citizen, Isadore Feinstein, remarked: "I really don't believe

that payer is necessary in school-the Pledge to the Flag should be enough" (Lofton 1962,

3-B).

Differing from the two other regions, the *Greenville News* did not include any articles sharing the reactions of local public school officials to *Engel*. The newspaper did, however, provide an unofficial survey to gauge the reactions of local citizens. Out of the five Carolinians questioned in the survey, four disagreed with the majority decision. Most

comments against the verdict were similar to Lewis Bailey's remark. He asserted: "Yes I believe praying should be allowed in schools. I can see no harm in it, and some good could come from it" (Peace 1962, 3-D). Contrary to the majority, was Kathleen Boot, who supported the decision and offered a different perspective: "I don't think praying should be forced on anyone. Prayers in public schools should be optional" (Peace 1962, 3-D). As Carolinians adjusted to the news, articles in the major newspapers transitioned from conveying public reaction to *Engel* to reporting on Congressional proposals that would invalidate the Court's decision.

Just two days following the *Engel* edict, talk surfaced in the article "Prayer Ruling Stirs Amendment Talks" that Congress was trying to pass a Constitutional amendment which would nullify the High Court's ban on state-sanctioned prayer (Associated Press 1962, 1-A). Adding to the amendment fervor was well-known Charlestonian Cornelia Dabney Tucker who submitted a petition to High Court with fifteen hundred signatures of citizens who deplored the ruling. Commenting on the case in the article "1,100 New Signatures Added to Petition," Tucker asserted:

If the Supreme Court decision on prayer in the public schools of New York state does not constitute a blow to official recognition of Deity, I trust your Honorable Body may on reconsideration clarify this vital issue. Also, in your reconsideration, please advise wherein our Constitution gives the Supreme Court power to rule on religious issues. (Tucker 1962, 1-B)

The swift and broad *Engel* decision shocked South Carolinians, and much of the hostility towards the ruling was in large part because of a widespread misunderstanding of the verdict. The article, "The Court Ruling: An Analysis" which ran in the *Charleston News and Courier* provided an explanation of the *Engel* verdict from W. Barry Garrett, the associate director of the Baptist Joint Committee on Public Affairs. In detailing the

decision, Garrett remarked: “The Court did not say that children cannot pray in the public schools. It did not even say that classes cannot have prayer nor that teachers must not refer to God...The Court did not eliminate God from our public life...” (Garrett 1962, 4-C). Despite this explanation, the majority of Carolinians who protested the ruling believed that all types of prayer were now unconstitutional. Much of this misunderstanding was fueled by angry letters to the editor.

An abundant number of letters to the editor appeared in the *Columbia State* beginning with the publication of the decision at the end of June. Most of the letters from Columbia residents expressed disagreement with the ruling. Some, like T.G. Carman, saw the decision as a “...blow to all Christian people” and urged citizens to write their congressmen to pass a bill to invalidate the Court’s edict (Carman 1962, 12-A). Similar to Carman, local school teacher T.J. Chapman said: “Personally, I would scrub floors for a living rather than teach school if I was not allowed to pray and let those children know that God would be honored in my classroom” (Chapman 1962, 10-A). William Medlin went so far as to claim that the Supreme Court and President Kennedy’s New Frontier were “...dedicated to destroy everything Americans hold essential to their way of life” (Medlin 1962, 10-A). Furthermore, Medlin censured Justice Black declaring:

Justice Black, when you grew up, did someone fail to take you to Sunday School and Church, and were you taught that God, religion and faith were hinderances to one’s education...How can you claim to interpret American law, when you seem to know nothing of American way of life? (Medlin 1962, 10-A)

Additional letters, like C. C. Dillingham’s called for the impeachment of Chief Justice Earl Warren (Dillingham 1962, 10-A).

Although the majority of letters presented a scathing response to the verdict, some writers embraced the Court's decision and pointed out that the judgment was not as sweeping as some persons asserted. For instance, Rene LaPlante of Columbia stated: "With vehemence, I deny the right of the American court to constitutionally accept any public non-denominational, prayer as consistent with the ideas of American education" (LaPlante 1962, 12-A). Similarly, Peter McCauley of Fort Jackson remarked:

I question the right of the vociferous Christian segment of the American parents to direct the teachers of public school systems to observe or perform any form of religious ritual which is unnecessary to maintain proper respect to their personal religion, or the religion of the majority of their students; and which would tend to hamper, in any way, the spiritual upbringing of the rest of their students.
(McCauley 1962, 14-A)

Likewise, Timothy Fincher's letter simplified the ruling by saying: "The court did not rule that it was a bad idea to attempt a suitable prayer for all denominations and neither did it rule that there would be no more praying in public schools as a great many think" (Fincher 1962, 8-A).

Many citizens from the Low-Country also expressed their disdain for the justices and the majority judgment opinion. Differing from the *Columbia State*, the editorial staff of the *Charleston News and Courier* included a June 29 editorial that attacked the ruling declaring: "At the risk of being held in contempt, we submit this fervent daily prayer: God save us from the Supreme Court. In view of the President's implied endorsement of the decision and his advice to obey it, we say also: God save us from the White House" (Waring 1962, 10-A). Similar feelings were also found in published letters to the editor. Claire Reenstjerna, for example, wrote: "Psychologically, we cannot turn God off from our lives as we would use a water faucet to turn off water. We need repetition of prayer to

give it a deeper association to its meaning. An academic learning without spiritual insight is food for the agnostic” (Reenstjerna 1962, 6-A). Another letter, from Paul Quattlebaum of Conway, asked the important question:

Shall I obey God or shall I obey man? This is the question that the U.S. Supreme Court has imposed on every teacher... Will the Supreme Court ask that our teachers be burned at the stake if they fail to obey its edict?... Some day members of the U.S. Supreme Court will stand before the Almighty and be judged. May the Lord have mercy on their souls. (Quattlebaum 1962, 6-A)

Other letters like A.S. McCellan’s alluded to a possible connection between the decision and Communism declaring: “Yes, we shall continue to pray in our public schools and anywhere else we so desire. If it proves too insulting to the Supreme Court or Mr. Kennedy, perhaps they will take the hint and move to Moscow” (McClellan 1962, 6-A). Additional letters, like one from Sonny Mercer of Kingstree, echoed C. C. Dillingham’s recommendation that the Supreme Court justices who sided with the majority be impeached. Mercer maintained:

The U.S. Supreme Court hit the wrong button this time! It has awakened the American people to the fact that the court is dominated by communism. Some senators have introduced legislation to keep our freedom of religion. But this is a wrong thing to do. What Congress should do is impeach the entire Supreme Court! (Mercer 1962, 6-A)

Some letters to the editor in the *Charleston News and Courier* supported the High Court’s ruling. Among these letters was a well penned commentary from a former resident of Beaufort and current Duke University student, Michael Greenly, who criticized those citizens who believed that the decision limited their freedom of religion. Greenly stated: “With all your loud shouts of ‘Freedom,’ are you concerned in the least about the freedom of an individual to pray as he chooses? Or, do you believe that he must bend and conform to the credos expressed in a classroom prayer which may insult his

own religion?” (Greenly 1962, 10-A). In expressing his disdain for those who misunderstood the decision, Greenly concluded his letter by saying: “You are helping me form my opinions by giving me an example NOT to follow: narrow and bigoted” (Greenly 1962, 10-A). Similar sentiments were evident in a letter from Marc Hauenstein of Kingstree who pointed out, correctly, that the Court had not banned a student’s right to prayer:

It is tragic to see how twisted people’s minds become when ruled by emotion rather than logic... You should know it is not true that the court doesn’t believe prayer should be taught to children as you stated. Shame, shame that you would stoop so low as to print such an untruthful statement... There was nothing in what I read about the decision to indicate that private prayer was forbidden. (Hauenstein 1962, 8-A)

Differing from the *Columbia State* and the *Charleston News and Courier*, the *Greenville News* featured fewer letters regarding the ruling. There is no clear explanation as to why residents of the Up-State were quieter in their response to *Engel*. Nevertheless, many letters protesting the decision, echoed G.H. Smith’s note from Taylors: “There was absolutely no basis, legal or moral, to make a ruling such as this. We sincerely hope that the American people demand that something be done about the Supreme Court. How much longer can our country last with this law by judicial decision?” (Smith 1962, 2-D). Unlike the other two newspapers, the *Greenville News* did include a significant number of letters from citizens who supported the ruling as a means of upholding the First Amendment. For example, Trenton Horton of Greenville affirmed:

I wish to go on record as being completely in agreement with the Supreme Court ruling... Religion and government cannot be one and the same in a true democracy... The imposition of religious teachings upon students in our public schools is nothing more than a thinly disguised attempt to plant the seeds of dictatorship. (Horton 1962, 2-D)

James Crocker of Greenville explained the paradox of the decision saying: “Is it not ironical that many of the Protestants who were screaming alarm at the prospect of having a Roman Catholic President because they feared that he did not believe in separation of church and state now find the shoe on the other foot” (Crocker 1962, 2-D). As news of the decision continued to spread, the strong opinions of many South Carolinians were echoed by many denominational leaders.

Religious Denominations React to *Engel*

As previously discussed, South Carolina has long enjoyed a cozy relationship with religion. This partnership led the South Carolina Christian Action Council (SCCAC), to declare 1962-1963 as the “Year of Prayer.” In making the request, the SCCAC, a world-wide group promoting social justice and Christian unity, encouraged Christians and churches to pray for “direction and purpose” in the mist of social and political turmoil (Christian Action Council, 1). As Christian denominations heeded the call of the SCCAC, the Supreme Court handed down its edict in *Engel* to which clergymen and praying citizens all shared their opinions.

Beginning in the Midlands, local pastors and churchgoers openly shared their opinions in articles and editorials in *Columbia’s State*. For instance, in “School Officials, Ministers Voice Opinions on Ruling,” Dr. George V. Johnson, editor of the *Episcopal Churchman* the official publication of the Episcopal Diocese of Upper South Carolina held that the decision was: “...contrary to the concept of our founding fathers” (Walker 1962, 1-B). Likewise, Father Eugene L. Condon, assistant pastor of St. Peter’s Catholic Church asserted that the ruling was an “exaggerated interpretation of the Constitution,” while Dr. Feltham S. James, minister of Main Street’s Methodist Church, referred to it as

a: “disregard of the heritage and tradition of America,” and Reverend Leslie W. Edwards of Kilbourne Park Baptist Church said the decision was: “... destroying the basic foundations of our national strength...” (Walker 1962, 1-B). Expressing similar feelings were the women of Darlington’s Presbyterian Church, who in a July 10 letter to the editor of the *Columbia State* shared the message they wrote to Justice Stewart praising his dissenting opinion. In their letter, which was also published in the *Charleston News and Courier*, the women declared: “We, the Women of the Darlington Presbyterian Church, wish to commend you for the stand you took in the recent court decision...May your courageous stand awaken the people of America to the dangers involved in this decision” (The Women of Darlington Presbyterian Church 1962, 10-A). Also published in *Columbia’s State* was another sermon by Dr. Archie Ellis of First Baptist Church. In his July 1 message entitled “Caesar and God,” he called the *Engel* decision “...the most far-reaching decision that the Supreme Court has ever issued...” (Ellis 1962, 12-A). In describing common practices, like the national motto and national day of prayer, which reflect America’s close relationship to religion, Ellis supported Stewart’s dissenting opinion in which he argued that both the rights of the majority and minority must be protected. He concluded his sermon with advice to his followers on how to counter the decision by saying: “If this decision of prayer could bring not only renewed emphasis, but renewed practice of prayer, then this ruling of our Supreme Court could yet be for the glory of God” (Ellis 1962, 12-A/15-A).

Likewise in *Charleston’s News and Courier*, local religious leaders shared their opinion of the recent decision in the June 26 article “Clergy Raps Court Ruling.” For example, Reverend J. Roy Robison of Citadel Square Baptist Church was “disappointed”

with the ruling. Pastor John L. Manning of Sacred Heart Roman Catholic Church predicted (correctly) that: "...the ruling will encourage more private schools" and the Reverend George R. Cannon of Cherokee Place Methodist Church asserted: "...if we are going to leave God completely out of the picture, we are moving more and more toward a materialistic culture" (1962, 1-B). The article continued to report the opinions of the Reverend Dr. James E. Graham of Second Presbyterian Church who accused the Supreme Court of breaking a "precedent" by interfering in the public school system and the Reverend L.C. Magee of Old Street Andrew's Protestant Episcopal Church who believed: "...one of the wisest things we can do is call on almighty God for daily help" (1962, 1-B). Similar to Archie Ellis in Columbia, the Reverend B. Guerry of St. John's Protestant Episcopal Church on John's Island used his July 1 sermon to discuss the *Engel* verdict. In addressing not only the New York case, Guerry also described other recent decisions reached by the High Court in what he described as the: "...absolute and unchecked power of the Justices of the U.S. Supreme Court..." (Guerry 1962, 8-A). Following their religious leaders, members of the Lydia Sunday School Class of Windsor Baptist Church in Charleston Heights under the direction of Irene Scott and the Sue Knight Bible Class of Bethany Methodist Church in Summerville under the direction of M.D. Dorn, composed and submitted letters to *Charleston's News and Courier* to voice their support of Justice Stewart's dissenting opinion.

Although the majority of religious leaders expressing an opinion published in the *Charleston News and Courier* did applaud the majority verdict, some did not. For example, Reverend Harold Wells of Midland Park Baptist Church said: "I certainly wouldn't want to recite a prayer I didn't believe in" and Rabbi N.L. Rabinovitch of Brith

Sholom Beth Israel Synagogue asserted: “Religion is the prime responsibility of the home and the churches” (1962, 1-B). In contrast to the *Columbia State* and the *Charleston News and Courier*, the *Greenville News* did not publish opinions of religious leaders following the announcement of the decision. The silence from religious leaders in the Up-State could be explained in that the *Greenville News* never sought their opinion, or religious leaders failed to provide any comments following *Engel*. Nevertheless, based on South Carolina’s close relationship to religion, it could be assumed that many Christian leaders in the Up-State opposed the High Court’s ruling.

Beyond newspapers, many religious denominations have traditionally used their statewide annual conventions to discuss pertinent events affecting religion. Yet, the 1962 annual conventions of the Evangelical Lutheran Synod, Protestant Episcopal Church, Protestant Episcopal Church of Upper South Carolina, Reformed Presbyterian Church, Methodist Church, and Baptist Church all remained muted in their response to *Engel*. There is no ready explanation of the silence, and it could be speculated that the conventions lacked interest or knowledge of the ruling. One religious group, however, voiced its disapproval of the Court’s ban on state-sanctioned prayer, namely the Roman Catholic Church.

Roman Catholics had long resented the Protestant practices in the public school system, but following the *Engel* verdict, they joined together. Similar to the 1889 alliance of Catholics and Lutherans in opposition to Wisconsin’s Bennett law, Catholics and Protestants united in 1962 to voice their opposition to the Court’s ban on state-sanctioned prayer. From the Pope in Rome, to Church officials in Charleston, South Carolina, Catholics presented a unified front in advocating religious practices in public schools.

In January of 1962, three months before oral arguments commenced in *Engel v. Vitale*, the Rt. Rev. Msgr. F.G. Hochwalt, Director of the Department of Education for the National Catholic Welfare Conference distributed a questionnaire to Catholic superintendents throughout the country. The questionnaire asked: Do public schools within the state open with any form of prayer, Bible reading or religious exercise? If yes, how are these exercises conducted? What is the nature of these exercises? What is the prevalence of these exercises in schools throughout the state? What are the opinions of the Attorney General or State Department of Education on the subject of religious exercises in public schools? What types of provisions exist to excuse children who do not want to participate? (Hochwalt 1962, 3). The Rev. Msgr. Joseph L. Bernardin, Chancellor of the Charleston Diocese, received the questionnaire and not knowing the answers, forwarded the questions to Thomas Carrere, Charleston's District 20 School Superintendent. Carrere did not attempt to answer the questions. Instead he provided the following statement which he thought would offer more clarification on the issue:

The policy of this school district for some time has been to open the school day each morning with the Lord's Prayer. Board policy also permits a portion of a Psalm or a Proverb to be read. This practice is followed in every school, both elementary and high schools and both Negro and White...Our policy is based on the policy that has been set by our local school district Board. (Carrere 1962, 1)

With prayer firmly entrenched in Charleston's public schools, Catholics continued to discuss the commingling of religion and education via articles in the *Catholic Banner*. Two weeks before the verdict was announced, the *Catholic Banner*, South Carolina's Catholic newspaper and a diocesan edition of *Our Sunday Visitor*, published the article "Religion's Place in Public Schools Must Concern All." The article boldly asserted the need for more religion in the public schools, and expressed the importance of Catholic

parochial schools as a means of preserving America's religious heritage. Furthermore, the article included comments from Msgr. O'Neil C. D'Amour of the National Catholic Educational Association who in a commencement speech to St. Norbert College, located in De Pere, Wisconsin, remarked: "...the moral underpinnings of the nation are weakening because of increasingly secular public schools" (National Council Welfare Committee News Services 1962, 1). One day later, on June 11, Pope John XXIII echoed Msgr. D'Amour's comments while speaking with a group of German secondary students. In his talk the Pope emphasized the need for a religious education by saying: "...brilliance without sound religious training leaves a man 'in a forest with no way out'" (National Council Welfare Committee News Services 1962, 2).

Following the announcement of the *Engel* verdict, the *Catholic Banner* published numerous articles deploring the decision as a way of promoting secularism in the public schools. One of the more descriptive responses came from Archbishop Paul J. Hallinan of Atlanta, Georgia. At the enthronement of Rev. Francis Reh as the ninth Bishop of Charleston, Hallinan, the former Bishop of Charleston, spoke of the religious character of South Carolina. Hallinan asserted that although South Carolina was predominantly non-Catholic, the Protestant citizens of the state did retain a strong love for the Bible. In proclaiming the importance of religion Hallinan addressed the recent edict of the High Court by saying: "The recent Supreme Court decision has deeply disturbed those Americans who hold that our nation has been, and by right ought to be, conscious of its duties to God" (National Council Welfare Committee News Services 1962, 2). After speculating on whether the Supreme Court would rule other ceremonial religious

traditions a violation of the no-establishment clause, Hallinan closed his speech with a firm statement:

Disagreeing in many things, we can at least agree on this: the strongest possible defense of the Christian conscience as a recognized factor in American public life, and our constitutional freedom of worship as the heart of the solutions to the problems that arise in a society of many religions. (National Council Welfare Committee News Services 1962, 3)

Differing from Catholics, the Jewish community applauded *Engel* as a means of upholding religious liberty in their ongoing efforts to separate church from state. In the months preceding the announcement of *Engel*, Jews in South Carolina were battling with state officials over another troublesome issue, the enactment of Sunday Blue Laws. In expressing his opposition to Sunday Blue Laws, Rabbi E. Levi of Charleston declared: “The American Constitution guarantees to every individual freedom of worship. Separation of church and State is a basic principle of American life. Furthermore, I am convinced that under no circumstance is it possible to legislate religious or moral conduct” (Levi 1962, 1). As South Carolina’s Jews continued to fight for religious liberty, the *Engel* verdict was issued. With the Court’s verdict on state-sponsored prayer in the public schools, the Charleston Jewish Relations Committee, like many Jewish groups, used its June 1962 monthly meeting to discuss the impact of the ruling. Although the Committee never released a formal statement condoning the decision, two South Carolina rabbis shared their opinions of the momentous ruling. David Gruber served as the Rabbi of the Tree of Life Congregation in Columbia when the *Engel* decision was announced. As detailed in electronic correspondence with Gruber’s son, Rabbi Mayer Gruber, the elder Gruber believed that: “...prayers and devotional readings of the most narrow kind offended the religious sensibilities of children of various backgrounds and

made them feel uncomfortable” (Gruber 2012, 1). Echoing Gruber’s support of the High Court was Rabbi Burton Padoll of Kahal Kadosh Beth Elohim (KKBE) Reformed Congregation in Charleston. In his undated sermon entitled “Let’s Talk About Prayer-and the Supreme Court” Padoll explained the outcome of the case and the public’s reaction to the majority decision. After detailing the obvious surprise of many Southerners, Padoll mentioned that Jews experienced an unexpected backlash after the ruling was announced:

Our public schools, which are tax supported institutions and therefore agencies of the government, are supported for the sole purpose of academic education. In a nation such as ours, which not only provides public education for our children...but also guarantees freedom of religion, allows each individual family to choose his own religious discipline...To subject children in the public schools to any form of religious training is a violation of this freedom. In other words, despite the name of Engle [*sic*] attached to this legal suit, the issue was an American issue, not a Jewish one. (Padoll, 2)

Padoll closed his sermon by alluding to the forthcoming High Court decisions in *Abington* and *Murray*, in which he believed the Court would: “...rule in favor of the absolute separation of religion from the public schools” (Padoll, 5).

Political Reactions to *Engel*

Intertwined among the social and denominational responses to *Engel* were the reactions of South Carolina’s state and national political leaders. Beginning with state politicians, the personal and professional papers of South Carolina’s Governor Hollings were surprisingly muted in response to the New York case and the High Court’s decision. This apathetic attitude was further reflected in the file entitled “Press Conference, Anticipated Questions, 1962” where there was no mention of the *Engel* case or prayer in public schools. Hollings’ inattention to the topic could be explained in that he was indifferent towards the decision, perceived his constituents to be uninterested in the verdict, or was preoccupied preparing for the 1962 U.S. Senate race. Similar to the

Hollings' collection, the papers of Lieutenant Governor Robert McNair also fail to provide insight into his opinion on prayer in public schools and the *Engel* verdict. Nevertheless, in a February 2, 1962 speech "World Problems-How They Affect our Youth" McNair did explain the importance of religion as a tool to educate children. In his address to the Colleton County Parent-Teacher-Association, McNair asserted: "The Communists are taking their youth and training them that their way of life is the best...religion is the greatest force against Communism and we should not neglect our youth" (McNair 1962, 6). Similar to Hollings and McNair, not one of Attorney General Daniel McLeod's personal or professional papers from the 1960s addressed the *Engel* decision. Based on the quotes McLeod provided to local newspapers following the verdict, he apparently opposed the ruling and endorsed state-sanctioned prayer in public schools. Fourteen years later, however, he adopted a different position on *Engel*. In an April 8, 1976, speech, "Will Education Survive the Courts?" McLeod opined:

Following *Brown*, other decisions have profoundly affected education. The delicate area of church-state relations, quiescent for years, was probed by the Supreme Court in the New York case involving prayer in the public schools, producing consternation and controversy. That case, I submit, was correctly decided, for I do not believe that any public body has the right to devise a prayer, no matter how non-sectarian in tone, and require that it be read in the public schools. The breach of the Jeffersonian wall of separation between church and state was apparent. (McLeod 1976, 4-5)

Although some of the state's elected officials avoided sharing their opinion of the verdict, State Superintendent of Education, Jesse Anderson, readily revealed his thoughts about the relationship between religion and the public schools. In contrast to the volume of letters addressed to the Superintendent after the *McCullum* (1948) ruling, Anderson received few letters after *Engel*. As a believer in the state rights platform and an advocate of local control of education, Anderson when referring to the issue of state-sanctioned

prayer in public schools often “regretted that the issue would even come up” (Dierenfield 2007, 160). Nevertheless, in the aftermath of the decision, Anderson received letters from local citizens who did not know what religious practices were considered constitutional in the public schools. For instance, Cornelia McLaurin of Sumter wondered if the *Engel* verdict outlawed courses in Bible. In his July 5, 1962 response, Anderson stated: “The recent decision of the Supreme Court has not changed any program in South Carolina, for the State does not have any requirements for any religious activity or prayer, and in South Carolina everything has been voluntary” (Anderson 1962, 1). Although Anderson did not address the issue of state-sanctioned prayer, his interpretation of the Court’s decision hinged on the idea that if an action is “voluntary” it is constitutional.

Like Hollings and McNair, the members of the South Carolina General Assembly did not address the *Engel* decision in correspondence to constituents, speeches, or personal documents. This silence on the part of Carolinians like Speaker of the House, Solomon Blatt of Barnwell County, and State Senator L. Marion Gressette of Calhoun County, could be explained by their perception that *Engel* was a federal issue, not a state matter. As a national issue, South Carolinians expressed much of their contempt for and elation over the verdict to elected officials in the U.S. House of Representatives and U.S. Senate.

Members of the U.S. House of Representatives were comfortable in sharing their contempt for the *Engel* verdict in both newspaper articles and constituent correspondence. For instance in the *Charleston News and Courier*’s article “Most Congressmen Oppose High Court Ruling,” Representative Robert Hemphill of South Carolina’s Fifth Congressional District commented: “I think the decision was poorly

timed and was, in fact, a poor decision, but it should be realized that it did not outlaw prayer or Bible reading in schools” (1962, 5-C). When asked if he supported a constitutional amendment to permit prayer in public schools, Hemphill answered: “...I would back such a move because I believe we should impress the Court and the world with the fact that we are a religious nation and that we will continue to pray in our schools regardless of how the Court may in the future rule” (1962, 5-C). In a similar vein, Representative Robert Ashmore of the Fourth Congressional District stated: “I think the Supreme Court’s decision is another one of its extreme liberal left-wing rulings...I will back 100 per cent any amendment to the Constitution to guarantee the right of prayer in schools” (1962, 5-C). Sharing Hemphill and Ashmore’s public comments were two of the more outspoken members of the U.S. Congress, William Jennings Bryan Dorn and L. Mendel Rivers.

The papers of Representative William Jennings Bryan Dorn, of South Carolina’s Third Congressional District, provide insight into not only his opinion regarding *Engel*, but also the resentment felt by many South Carolinians in 1962. Much of the correspondence found in Dorn’s personal and professional papers mentioned a tie between the ruling and an increase in communism. For example a June 29 letter from Mr. and Mrs. R.D. Tucker of Charleston avowed: “The Supreme Court, by its ruling Monday that prayer in the public schools is unconstitutional, has confirmed the growing suspicions in the minds of many true Americans, that these so-called ‘Honorable Gentlemen’ are governed by the communist way of thinking” (Tucker 1962, 1). Likewise a letter from Mrs. James C. Fraser adds: “I have a little seven months old daughter whom I want to have freedom of religion and freedom of America. My heart breaks each night

when I put her to bed thinking that she may live under Communism...” (Fraser 1962, 1). Included in Dorn’s papers were also church petitions objecting to the decision. Some of these appeals were from Fants Grove Baptist Church of Pendleton, Trinity Lutheran Church of Saluda, and St. James Methodist Church of Charleston. Dorn often used a standard response to those who mailed him letters or petitions, saying: “This decision is being widely debated here in the Congress and in the churches of Washington. I am particularly pleased to have your thoughts and I will take whatever course necessary to preserve not only separation of church and state, but our basic fundamental freedoms” (Dorn 1962, 1). Although this timid response may have reflected support for the majority decision, Dorn’s correspondence following the 1963 rulings in *Abington v. Schempp* and *Murray v. Curlett* highlight his endorsement of prayer and Bible reading in the public schools (Dorn 1962, 1).

L. Mendel Rivers represented South Carolina’s First Congressional District and was known for his support of racial segregation and American troops in Vietnam. It was his outspoken nature that made many Carolinians comfortable in voicing their disdain for the *Engel* decision. In the days following the announcement of the verdict, Rivers’ words in the *Charleston News and Courier’s* article “The Nation Reacts to Ban on Prayer” sharply criticized the six justices who he referred to as “agnostics” (1962, 10-A). In expressing his opinion, Rivers referred to the decision as “...the work of an unpredictable group of uncontrolled despots” and “the most serious blow ever struck at the constitution” because it would “have only the effect of giving aid and comfort to the communist world” (*State’s Washington Correspondent* 1962, 5-A). In an act of retaliation for the ruling, Rivers encouraged the U.S. Congress to reduce the amount of “appellate

jurisdiction” given to the High Court. He went even further to suggest that the Supreme Court justices be forced to run for public election which would: “...require these men to state to the American people their dangerous propensities before they are shrouded in a robe of mystery and permitted to strike without notice at the basic concepts of the greatest document ever devised by the mind of men” (*State’s Washington Correspondent* 196, 5-A). Rivers’ aggravation over the decision was also found in an undated speech located in the folder entitled “Congressional Record, 1962.” In the un-titled speech presented before the House of Representatives, he expressed frustration towards Chief Justice Earl Warren who “...has indoctrinated this court with a toxin that has just about destroyed every vestige of respect which the American people once held for this body. This is a tragedy” (Rivers, 2). Rivers’ animosity towards the decision and the justices, excluding Stewart, was further reflected in letters to his constituents. For instance, in a response letter to Charles Ferillo, a well respected politico in South Carolina, Rivers opined: “You can rest assured that we are going to leave no stone unturned to correct the recent decision outlawing the Word of God in the schools of America” (Rivers 1962, 1). Other letters from Rivers echoed similar feelings as he told South Carolinians that he would use his position to curb the power of the Supreme Court and to encourage prayer in public schools. In addition to the critical responses of South Carolina’s Representatives to the *Engel* decision, South Carolina’s two U.S. Senators, Olin Johnston and Strom Thurmond, decried the ruling.

In comparison to many Carolinians, the Palmetto State’s senior senator, Olin Johnston, offered a more measured response to the High Court’s decision. In a speech

presented after the announcement of the verdict and published in Johnston's June 29, 1962 "A Washington Letter" he asserted:

It is a sad day when the members of Congress must rise as I do today to defend freedom of religion in these United States...I want it clearly understood by every school child in South Carolina and our nation, and by every teacher and every principal, and every other school official in these United States that they still today enjoy the same religious freedom that they enjoyed the day before the Supreme Court rendered its decision of Monday, June 25, 1962. (Johnston 1962, 1)

In trying to explain the High Court's verdict, Johnston said that the Court did not outlaw all prayer in public schools, just state-sanctioned prayer as seen in New York.

Furthermore, Johnston alluded to his preference for a localized approach to public education stating that: "...I do not like the Supreme Court's getting into cases of this nature..." (Johnston 1962, 1). He ended the letter to his constituents with a rallying cry: "Let us show the entire world—the nonbelievers and the theorists and all the rest—that the people in the United States believe in prayer and in God Almighty and that we intend to continue to pray as we see fit...and that no one can stop us" (Johnston 1962, 3).

Following his newsletter, Johnston was still trying to explain the Court's decision to Carolinians. During his July 26 radio show he mentioned: "...I feel the Constitution, as it reads today, adequately guarantees this right to pray" (Johnston 1962, 1). In a move to further inform constituents of their religious rights in public schools, Johnston co-sponsored two joint resolutions that sought to: "...guarantee the right of people to pray in our schools" and provide that "...any individual or group of people in any school can at any time offer prayer in whatever manner they wish..." (Johnston 1962, 1). Despite his efforts, Johnston's joint resolutions were never fully endorsed by the Senate or House of Representatives.

Though Johnston was comparatively measured in his public comments on *Engel*, many of his constituents were not. Distributed among eight folders, Johnston received the most correspondence, aside from Thurmond, of any elected official in the wake of *Engel*. Among the papers were numerous letters and petitions from churches, including McDuffie Street Church of God in Anderson, Bethel Baptist Church in Olanta, and Grace Advent Christian Church of Walterboro, all of which voiced concern over the verdict. Interspersed among the petitions were some demanding letters like Evelyn Davis' note that affirmed: "As a teacher of children I beg you to help pass a declaration asserting the right of prayer in the public schools of the United States of America...Please get busy" (Davis 1962, 1). To those letters seeking a Constitutional amendment to nullify the Supreme Court's decision, Johnston's reply often mirrored the following response mailed to Mrs. Obie Seymour of Walterboro: "...I want you to know that such letters as yours make me feel that the people back home are aware of the dangers that threaten our country" (Johnston 1962, 1). In trying to mollify the anger expressed by many South Carolinians, especially those who wanted to impeach the justices of the Supreme Court, Johnston rejoined, as seen in a letter to Mrs. Donald Truesdell of Lugoff, by saying that an impeachment charge must originate in the House of Representatives and no such measure has been taken, but: "If and when such a matter does reach the Senate, you can rest assured that I will represent the convictions of the people of my state" (Johnston 1962, 1). Johnston's almost trivial response to the *Engel* verdict solicited letters from State Senator Edgar Brown and State Representative Jerry Hughes of South Carolina's General Assembly, who encouraged the U.S. Senator to take a more forthright stance against the decision.

Edgar Brown's letter, dated July 18, elicited a more rapid and pointed response from Johnston declaring: "Take a blast at Hugo Black and the Supreme Court on the anti-prayer decision. You will be amazed to know how interested the people are in this subject and how much good it would do for you to publicly make a speech or issue a press release condemning that decision" (Brown 1962, 1). A letter from Representative Hughes was more moderate. He wrote: "I respectfully request that you do all in your power toward the adoption of an amendment to the Constitution of the United States allowing prayers in all public schools" (Hughes 1962, 1). Despite the abrasive letters, Johnston stood his ground in believing that the *Engel* decision still permitted school children the right to pray.

Strom Thurmond was one of the most well-known political figures of the twentieth century. The one time presidential candidate and South Carolina's junior senator at the time of *Engel* was very outspoken when it came to divisive issues like integration and religion in the public schools. Therefore, it is not surprising that following *Engel*, Thurmond created an uproar in speeches and correspondence that was often fueled by his constituents. For example, three days after the decision, Thurmond delivered a speech on the floor of the Senate that lambasted the High Court's ruling. He asserted that the justices lacked the jurisdiction to rule on the case, despite the *Cantwell* and *Everson* decisions, because the Regents Prayer was not mandated by Congress (Thurmond 1962, 1-3). He then articulated the fears of Carolinians who felt that if the decision stands, the Court could ban "...any action in public schools or in our national life carrying the 'taint' of religion or acknowledgement of a Supreme Being..." (Thurmond 1962, 3). Most notable in Thurmond's speeches was his ability to connect with the everyday citizen in

addressing national and international events. In the same speech before the U.S. Senate on June 28, Thurmond declared:

This irrational--and I think irreverent--decision in Engel v. Vitale comes, Mr. President, at a time when the world is locked in a cold war struggle between the forces of freedom which look to a Supreme Being for Divine guidance and supplication and the forces of tyranny which are presided over by an ideology which does not recognize true freedom or any god except man himself and the worship of materialism. In this time of the most critical period in our national life, we need to increase rather than decrease individual and national attention to spiritual and moral values which undergird our nation in this struggle...(Thurmond 1962, 12-13)

Thurmond made similar comments in his weekly radio broadcast and newsletter to his constituents. Varying from Johnston's understanding of the decision, namely that it did not touch state practices, Thurmond in his June 28 radio broadcast encouraged Congress to "...reverse the majority opinion in the school prayer case" (Thurmond 1962, 3). His desire to have Congress overturn the High Court's ruling is of course questionable under the separation of powers, as Congress only retains law-making power and therefore could only enact a law mandating state-sanctioned prayer in public schools.

As Thurmond continued to voice his opposition to the *Engel* decision, South Carolinians mailed volumes of letters to their outspoken senator. Many of these letters were highly critical of the justices who struck down the Regents prayer and the decision itself. In his response to these letters Thurmond detailed the bigger problems that could surface in the wake of *Engel*. For instance, in a July 9 response to a letter from J.H. Bickley of Fadsom, Thurmond addressed the constituent's fear that the Supreme Court had "left wing tendencies" (Thurmond 1962, 1). He replied: "I regret very much to see our government going more and more toward the socialist welfare state" (Thurmond 1962, 1). Thurmond then quipped: "In recent years the Supreme Court's decisions have

been based more on sociology than law” (Thurmond 1962, 1). Other letters penned to Thurmond questioned the future of religion in the public schools. One such letter came from high school student Buddy Marchbanks, who expressed his enjoyment of starting the school day with devotions and prayer. Responding to the note, Thurmond praised Marchbank’s knowledge of the decision, but told the student to anticipate a more secular nation where the youth will have to “...piece together the shattered pieces of many points in our national heritage and tradition” (Thurmond 1962, 1).

Scattered among the large quantities of letters to Thurmond were petitions from churches throughout South Carolina protesting the ban on state-sanctioned prayer. Among these petitions, were pleas from Lynnwood Methodist Church of Lancaster, First Baptist Church of Hartsville, and Park Circle Presbyterian Church of North Charleston. In addition to petitions from South Carolina congregations, Thurmond received letters from residents in Missouri, Wisconsin, and New Jersey who viewed the *Engel* decision as a step towards atheism. Thurmond’s correspondence shows his ability to relate to not only South Carolinians, but citizens throughout the country.

In response to the strong outcry following the *Engel* verdict, the U.S. Senate Judiciary Committee planned a week of hearings to discuss the ruling. During these hearings the Senate Judiciary Committee, chaired by Senator Olin Johnston, discussed potential resolutions to curb the decision. One of the resolutions undertaken was Concurrent Resolution 81, which was co-authored by Senator Thurmond. In his testimony before the Judiciary Committee, Thurmond conveyed a sense of urgency. He wanted the Committee to pass the resolution in an effort to recognize America’s overwhelming disapproval of the Court’s majority opinion (Thurmond 1962, 1-3).

Unfortunately, as explained later in a letter to H.J. Ashe of Orangeburg, Congress failed to act on the matter before adjournment because of weak support for the resolution throughout the rest of the country (Thurmond 1962, 1).

Thurmond's strong opposition to the decision also made him a lightning rod for criticism. Interspersed between the petitions and letters in opposition to the Court's edict, were notes of support for the majority decision. For example, S.N. Atkinson of Lake City mailed Thurmond a copy of the note he wrote to Senator Johnston. Atkinson's note to Johnston praised the senator's understanding of the decision and in a way criticized Thurmond's misinterpretation of the verdict. In commending Johnston, Atkinson said: "You have so well made this view point plain without any open offense to any religion. Really the court hasnot [*sic*] said that there could not be any prayer in the public schools" (Atkinson 1962, 1). Illustrating the more traditional Baptist position on the separation of church and state, was Pastor Marion Hare of Augusta Road Baptist Church who asserted: "The point is this: It is not the place of School or Governmental Officials to write or sanction prayers for anyone" (Hare 1962, 1). Likewise a note from R.L. O'Brien, minister of First Baptist Church in Graniteville, applauded the ruling as it "...was in perfect harmony with the First Amendment..." (O'Brien 1962, 1). Furthermore, O'Brien attempted to persuade Thurmond by saying: "...I would earnestly plead with our Honorable Senator from South Carolina, to use their [*sic*] influence in not tampering with the First Amendment of the Constitution of the United States, and not attempt to coerce or regiment people into prayer" (O'Brien 1962, 1).

In the months following the decision, South Carolinians became preoccupied with

other national and state issues, such as the Cuban Missile Crisis and racial integration in the public schools, and in a sense forgot about *Engel*. Although Bible reading and daily devotionals remained fixtures in many public school classrooms, some South Carolinians still expressed confusion as to what actions did and did not violate the First Amendment. As detailed in a response letter to John Hardee of Loris, Senator Thurmond alluded to the forthcoming cases of *Abington v. Schempp* and *Murray v. Curlett*. He stated: “There are more cases pending in the Courts now on reading the Bible and the recitation of the Lord’s Prayer. These will soon be adjudicated and we will have a better idea as to the fate of God in our class rooms [*sic*]” (Thurmond 1962, 1). It is the reactions to the 1963 *Abington* and *Murray* judgments regarding these practices that provide further proof that South Carolina is a state with a strong commitment to state rights and religious traditions, regardless of federal mandates.

CHAPTER V

THE ABINGTON AND MURRAY DECISIONS

“The government is neutral, and while protecting all, it prefers none, and it disparages none.”

Judge Alphonso Taft in reference to
Board of Education of Cincinnati v. Minor (1870)

In the thirteen months following the *Engel* decision, most public schools, like many in South Carolina, continued to embrace a close relationship to religion, which was reflected in courses in Bible, devotional Bible reading, and the recitation of the Lord’s Prayer. As traditional habits in public schools continued, the Supreme Court of the United States granted a writ of certiorari to *Abington School District v. Schempp* and *Murray v. Curlett*. Following the separatist doctrine put forth in *Engel*, on June 17, 1963, the High Court ruled that devotional Bible reading and the recitation of the Lord’s Prayer in public schools violated of the First Amendment’s Establishment Clause.

As noted in Chapter I, public education has long experienced an entangled relationship with religion. Beginning with the colonization of North America, the Bible was the predominant instructional tool in the educational training of children. As public education developed in the nineteenth century, the role of religion was often reflected in the customary practice of Bible reading in the public schools. This practice sometimes resulted in conflicts as seen in the Philadelphia Bible riots of 1844. Despite the tensions between Protestants and Catholics, by 1912 most states, starting with North Dakota,

allowed students to enroll in courses in Bible (Michaelsen 1970, 182). Furthermore, as the twentieth century progressed more states, including South Carolina, began to offer courses in Bible for high school students. In addition, many school districts incorporated Bible reading into their daily exercises. Indeed, as late as 1956 only eleven states prohibited Bible reading through state constitution or state statute, while the remaining thirty-seven states used local laws or judicial decisions to require, or in some cases permit, Bible reading in the public schools (Dierenfield 1962, 21). This support for religion led to questions over the legality of these exercises which were reflected in the petitions of *Abington* and *Murray*. Questions that the lower courts and the Supreme Court were forced to answer were: If Bible reading occurs daily, can a school require students to attend this exercise? What if a student's religious preferences do not include the type of Bible read in class? Is the Bible considered sectarian? (Boles 1965, 62)

The Courts and Bible Reading: An Overview

Abington was not the first case to appear before the Supreme Court of the United States addressing the issue of Bible reading in the public schools. In 1931, the High Court heard arguments in *State ex rel. Clithero v. Showalter*. At stake here was a law mandating Bible reading in the public schools of Washington state. The High Court issued a *per curiam* opinion (an opinion issued by the whole court, rather than a specific judge) that dismissed the case as it did not present a federal issue (Boles 1965, 86). Twenty one years later, the Court once again heard arguments as to the constitutionality of Bible reading in the public schools.

In *Doremus v. Board of Education* (1952), Anna Klein, a parent of a high school student and Donald Doremus, a local taxpayer, filed a lawsuit against a New Jersey

statute that mandated the reading, without comment, of five verses of the Old Testament at the beginning of each school day. Though no issue was raised under the New Jersey Constitution, the appellants believed that the state law violated the First Amendment of the U.S. Constitution. In light of the pleadings and pretrial conference, the case was not heard by the New Jersey trial court (*Doremus v. Board of Education* 1952, 1-2). On appeal to the New Jersey Supreme Court, the justices held that the practice was constitutional saying: “No one is before us asserting that his religious practices have been interfered with or that his right to worship in accordance with the dictates of his conscience has been suppressed” (*Doremus v. Board of Education* 1952, 2). The court went on to assert: “We consider that the Old Testament because of its antiquity, its content, and its wide acceptance, is not a sectarian book, when read without comment” (Boles 1962, 88). In holding that the taxpayer’s aversion to the daily exercise did not add “...cost to the school expenses...” the justices dismissed Doremus’ objection to the law. Additionally, the New Jersey Supreme Court found that since Klein’s daughter was never offended nor injured by the daily exercise, Klein had no ground to file the lawsuit. In closing their opinion, the New Jersey Supreme Court justices boldly declared: “Apparently the sole purpose and the only function of plaintiffs is that they shall assume the role of actors so that there may be a suit which will invoke a court ruling upon the constitutionality of the statute” (*Doremus v. Board of Education* 1952, 2). After losing their battle at the state level, the plaintiffs appealed to the United States Supreme Court.

On appeal to the High Court, the nine justices considered the plaintiffs statements, but refused to grant a writ of certiorari to hear the case. In writing the opinion for the majority, Justice Jackson held that since the Klein girl had graduated from high school,

the Court lacked jurisdiction to rule on the case (*Doremus v. Board of Education* 1952, 3-4). In regards to Doremus' claim that the daily exercises violated his rights as a taxpayer, Jackson declared: "There is no allegation that this activity is supported by any separate tax, or paid for from any particular appropriation, or that it adds any sum whatever to the cost of conducting the school" (*Doremus v. Board of Education* 1952, 4). Disagreeing with the majority, Justice Douglas penned a dissenting opinion, which was supported by Justices Reed and Burton. He believed that the case held merit as both the taxpayer and parent were essential to the continued operation of the public school. In closing his dissent, Douglas asserted: "In the present case, the issues are not feigned; the suit is not collusive; the mismanagement of the school system that is alleged is clear and plain" (*Doremus v. Board of Education* 1952, 6).

In the eleven years following the *Doremus* case the Supreme Court remained silent on issues pertaining to Bible reading in the public schools, which left states to determine the legality of the matter. During this time, one of the well known lower court decisions was *Tudor v. Board of Education of Rutherford* (1953). Here the New Jersey Supreme Court ruled that the distribution of the King James Version of the New Testament on public school grounds violated the First Amendment of the U.S. Constitution. Furthermore, the justices also believed that the practice violated the New Jersey Constitution which sought to prevent the establishment of one religious group in preference to another. Thus in two years the New Jersey Supreme Court ruled that the reading of the Old Testament, without comment, did not violate the Establishment Clause, but the distribution of Bibles on school grounds ran afoul of the no Establishment Clause (Boles 1965, 91-94).

As America transitioned into the turbulent 1960s, the Supreme Court of the United States ruled in *Engel v. Vitale* that state-sanctioned prayer violated the Establishment Clause of the First Amendment. With the public uncertain as to which other religious practices in public schools were permissible, and which were not, the High Court heard arguments in *Abington* and *Murray*.

The Roots of *Abington*

Abington School District v. Schempp originated in Pennsylvania where the practice of reading the Bible in the public schools had existed since the early nineteenth century. In 1913 the Pennsylvania legislature voted to require daily Bible reading as a means of promoting “good moral training” and “good citizenship” (Dierenfield 2007, 163). As the state transitioned from the Second Great War to the Cold War, the Pennsylvania legislature passed a Bible reading statute on March 10, 1949, which read:

At least ten verses from the Holy Bible shall be read, or caused to be read, without comment, at the opening of each public school on each school day, by the teacher in charge...If any school teacher, whose duty it shall be to read the Holy Bible, or cause it to be read, shall fail or omit so to do, said school teacher shall, upon charges...and proof...be discharged. (Sawyer and Elsbree, 1962, 2)

In accordance with the state law, Abington Senior High School used the early morning period of homeroom to conduct the daily devotionals. During each school day the student-led exercises were broadcasted into classrooms between 8:15 and 8:30 AM via the intercom system. Students enrolled in the school’s radio and television workshop class held the authority to select the daily Bible reading and the type of Bible used: King James, Douay, Revised Standard, or Jewish Holy Scripture. The school, however, only provided the King James Version. There were no questions, statements, comments, or explanations made over the intercom system following the reading. After the reading was

completed, all students were asked to stand and repeat the Lord's Prayer in unison. The morning exercises then closed with recitation of the Pledge of Allegiance and important school-related announcements (*Abington School District v. Schempp* 1963, 3). Similar to high school, those students enrolled in lower grades often experienced similar morning exercises that included the daily recitation of the Lord's Prayer (Dierenfield 1967, 2007).

The case began in 1956 when sixteen year old Ellory Schempp objected to the daily devotional exercises. Ellory, and the entire Schempp family were practicing Unitarians who rejected certain basic Christian teachings, specifically the idea that Jesus was conceived by the Holy Spirit and was part of the godhead. Ellory's beliefs were in direct contradiction to the beliefs espoused during the daily morning exercises in Abington Senior High School. Persuaded by his English teacher and mentor, Ellory and his friends met weekly to discuss current topics, including the mandatory religious exercises. After one such meeting, he and two of his classmates including a Catholic student and a Greek Orthodox student, decided to protest the daily devotionals. Although his friends failed to carry through on their promise, Ellory decided to object to the morning exercises (Dierenfield 2007, 164-65). In reflecting upon his decision to protest the daily devotionals Ellory later said: "In my naiveté, I thought I could point out the error and someone would make things right. I don't think I understood the extent of how jolting this would be to the American public" (Dierenfield 2007, 165). On Monday, November 26, 1956, Ellory began his protest by silently reading from the Qur'an while the daily Bible verse was read over the intercom system. He continued to read the Qur'an as his classmates and teacher recited the Lord's Prayer. When asked why he chose the Qur'an Ellory answered: "I wanted to indicate that Christ and the Bible were not the only

holy scriptures of the world” (Dierenfield 2007, 165). Ellory eventually stood and recited the Pledge of Allegiance, but disturbed over his reading of the Qur’an Ellory’s homeroom teacher sent him to the principal’s office. Unable to understand Ellory’s objection to the morning exercises, Principal W. Eugene Stull sent Ellory to the guidance counselor’s office (Dierenfield 2007, 165).

With the support of his parents, who were members of the ACLU, Ellory drafted a letter to the organization saying: “Gentlemen, I thank you for any help you might offer in freeing American youth in Pennsylvania from this gross violation of their religious rights as guaranteed in the first and foremost Amendment in our United States Constitution” (Dierenfield 2007, 166). The ACLU office in Pennsylvania decided to take the case and started planning its strategy. The office sought out other plaintiffs in Abington, but when no one else decided to join the suit, the ACLU proceeded with the three Schempp children: Ellory 18, Roger 15, and Donna 12. During the first trial in the federal district court of the Eastern District of Pennsylvania, Ellory and Donna described the school’s preference for the King James Version of the Bible. Both asserted that: “...during the reading of the Bible, a particularly high standard of physical deportment and attention was exacted...” yet as Donna continued: “...that this deportment was not always required when other works were being read” (Sawyer and Elsbree 1962, 5). The three children and their father, Edward Schempp, also testified that the King James Version of the Bible ran afoul of their religious beliefs, specifically, “...the divinity of Christ, the Immaculate Conception, an anthropomorphic God and the concept of the Trinity” (Sawyer and Elsbree 1962, 5). To express the feelings of some students during the mandatory morning exercises, the appellants sought the expertise of Dr. Solomon Grayzel, editor of the

Jewish Publication Society. In his testimony, Grayzel described the differences between the Jewish Holy Scripture and the Christian Holy Bible. He declared that portions of the New Testament were offensive to the Jewish community, particularly the belief that Jesus Christ was the Son of God, which Grayzel held was “practically blasphemous” (*Abington School District v. Schempp* 1963, 4). Grayzel’s testimony also included his observations of school children who had attended classrooms where a portion of the New Testament was read without comment. This daily devotional practice, Grayzel observed had been: “...psychologically harmful to the child and had caused a divisive force within the social media of the school” (*Abington School District v. Schempp* 1963, 4).

To counter Grayzel’s testimony, Abington School District had Dr. Luther A. Weigle, an ordained Lutheran minister and Dean Emeritus of the Yale Divinity School, testify in support of the morning exercises. In his testimony he explained that the use of the Bible in the public school was non-sectarian, within the Christian faiths. He went on further to say: “...reading of the Holy Scriptures to the exclusion of the New Testament would be a sectarian practice” (*Abington School District v. Schempp* 1963, 4). The Abington officials supported Weigle’s testimony by claiming that Bible reading was not a religious practice saying:

It requires only that those who wish to do so may listen to daily readings without discussion or comment from a great work that possesses many values...[It] does not involve proselytizing, persuasion, or religious indoctrination. It involves no avowal of faith, acceptance of doctrine, or statement of disbelief. (Dierenfield 2007, 167)

The school board’s attorneys went on to claim that to outlaw Bible reading would destroy customs which have “...long been cherished and accepted by a vast majority of the people” (Dierenfield 2007, 167).

In 1959 the federal district court issued its verdict holding that the daily devotional exercises such as those at Abington Senior High violated the First Amendment as the Bible was: “primarily a book of worship” and the school used it for “the promotion of religious education” (Dierenfield 2007, 168). Furthermore the three-judge court found that the Pennsylvania statute mandating Bible reading failed to define the term “Holy Bible,” and was unsuccessful in differentiating between the King James Version used by Protestants, and the Douay Version used by Catholics. Likewise the court found that the mandate, as presented in the law, that required public school teachers to read selections from the Bible, supported the establishment of a religion. Finally, the federal court believed that the state law interfered with a parent’s right to guide the religious education of his child (Boles 1965, 133-40). As the school district appealed the federal district court ruling, the Pennsylvania state legislature amended the statute to allow children to be excused with parental consent from the daily devotionals. Enacted on December 17, 1959, the new law read:

At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian. (Sawyer and Elsebree 1962, 3)

With the new Pennsylvania statute ratified, the *Abington* case was appealed to the United States Supreme Court. On October 24, 1960, the High Court issued a *per curiam* opinion that remanded the case back to the federal district court in light of the amended state statute allowing for students to be excused from the morning exercises (Boles 1965, 141).

On February 1, 1962, the federal district court of Eastern Pennsylvania reheard the *Abington* case. During the hearing Edward Schempp testified that he considered

removing Roger and Donna (Ellory was no longer a high school student) from the daily exercises. He stated that even though the morning exercises were non-compulsory, he feared that if he excused his children they would be considered “odd balls” by their teachers and classmates. Furthermore, Schempp stated that Roger and Donna’s classmates would most likely: “...lump all particular religious difference[s] or religious objections [together] as ‘atheism’ and that today the word ‘atheism’ is often connected with ‘atheistic communism,’ and has ‘very bad’ connotations, such as ‘un-American...’” (*Abington School District v. Schempp* 1963, 13). Moreover, Schempp declared that if he excused his children from the morning exercises, they would most likely miss hearing important school announcements that follow the Pledge of Allegiance. Lastly, he said that if Roger and Donna were excused from the classroom, they would have to stand in the hall outside their homeroom, which carried the impression that the students were being punished for bad behavior (*Abington School District v. Schempp* 1963, 13).

After hearing the appeal from the Abington School District, the same federal district court ruled against the amended Pennsylvania statute. In the majority opinion Chief Judge John Briggs Jr. asserted: “The fact that some pupils, or theoretically all pupils, might be excused from attendance at the exercises does not mitigate the obligatory nature of the ceremony for...Section 1516...unequivocally requires the exercises to be held every school day in every school in the Commonwealth” (*Abington School District v. Schempp* 1963, 5). Briggs went further to say that since the state statute required reading from the Holy Bible it sets a preference for the Christian religion as opposed to other religions. He concluded his opinion declaring: “The record demonstrates that it was the intention of...the Commonwealth...to introduce a religious ceremony into the public

schools of the Commonwealth” (*Abington School District v. Schempp* 1963, 5). With two courtroom defeats, Abington School District submitted another appeal to the Supreme Court of the United States. This time with jurisdiction, the High Court granted a writ of certiorari to hear *Abington*, along with another case stemming from Baltimore, Maryland.

The Roots of *Murray*

In 1905 the Board of School Commissioners of Baltimore City adopted a rule pursuant to the Maryland Code of Laws that held: “Each school, either collectively or in classes, shall be opened by the reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord’s Prayer” (*Abington School District v. Schempp* 1963, 14). Fifty-five years after the enactment of the rule, local social worker Madalyn Murray filed a lawsuit to discontinue the reading of the Bible and the recitation of the Lord’s Prayer in Maryland’s public schools. Although raised Presbyterian, Murray became agnostic later in life, denying the “efficacy of prayer” and doubting “the historicity of Jesus Christ” (Dierenfield 2007, 169). Moreover she believed that the Bible was “replete with the ravings of madmen” (Dierenfield 2007, 169). Furthermore, Murray considered those who recited the Lord’s Prayer as “worms groveling for meager existence in a traumatic, paranoid world” (Dierenfield 2007, 169). Her crusade to end the daily devotionals began after she unsuccessfully attempted to gain employment in Russia and was forced to return to Baltimore. There she enrolled her son, William J. Murray III in ninth grade at Woodbourne Junior High School. During William’s enrollment at Woodbourne, Murray kept him home from school for almost three weeks to “strike” against the religious activities of the school. On advice from the Maryland chapter of the ACLU, Murray returned William to school so a case could be brought against the mandated morning

exercises. The national office of the ACLU, however, rejected Murray's case on the basis that her financiers were rabid anti-Semites, and the organization was preoccupied with the *Abington* case in Pennsylvania (Dierenfield 2007, 161-62). In responding to her ACLU rejection Murray quipped: "The ACLU can go to hell, and take their opinions with them" (Dierenfield 2007, 172). Lacking a civil rights group to assist her, Murray hired local attorney Leonard Kerpelman, an Orthodox Jew.

When Woodbourne school officials learned of Murray's agenda, they asked her to drop the lawsuit and in return the school would allow William to graduate. If the suit continued, William would be ineligible to graduate as he had failed to complete all of his homework while on strike. The Murray's rejected the school's offer. To protect themselves from further litigation school officials removed William from homeroom and placed him in the administrative office so he could not hear the daily devotionals. After two weeks of this routine, William sneaked into his homeroom class. The teacher believing that William had been cleared by the front office to attend the morning exercises, allowed him to sit among his classmates (Dierenfield 2007, 172-73). As the morning prayer started William blurted out: "This is ridiculous" and then stormed out of the classroom (Dierenfield 2007, 173). With this Madelyn Murray and her son launched one of the most highly controversial lawsuits.

With the Murray's lawsuit pending, Maryland's Attorney General C. Ferdinand Sybert reinforced the state's compulsory school attendance law by saying that all students were mandated to attend school even if they objected to the Lord's Prayer. Those students who objected to the daily exercises, Sybert suggested, should remain silent or have a parent submit a written letter asking for the child to be excused (Dierenfield 2007,

174). Adhering to the Attorney General's advice, John Curlett, President of the Baltimore School Board encouraged the Board to amend the state rule. The new rule read:

Each school, either collectively or in classes, shall be opened by the reading, without comment, of a chapter in the Holy Bible and/or the use of the Lord's Prayer...Any child shall be excused from participating in the opening exercises or from attending the opening exercises upon the written request of his parent or guardian. (*Abington School District v. Schempp* 1963, 14)

During the first week of implementation, only three of the district's 170,000 students asked to be excused from the morning exercises (Dierenfield 2007, 174). The three students were Madalyn Murray's sons.

In filing her petition to cease the morning exercises, Murray claimed that the rule violated the religious freedom of her sons by:

...placing a premium on belief as against non-belief and subjects their freedom of conscience to the rule of the majority; it pronounces belief in God as the source of all moral and spiritual values, equating these values with religious values, and thereby renders sinister, alien and suspect the beliefs and ideals of your Petitioners, promoting doubt and question of their morality, good citizenship and good faith. (*Abington School District v. Schempp* 1963, 5)

Because Murray's complaint did not state a cause of action for which relief was needed, the trial court of Baltimore dismissed her case. In explaining its decision the court held that the implementation of the rule was permitted under the Board's discretionary power and that the petition did not specify the violation of any constitutional rights. Murray appealed her case to the Maryland Supreme Court. On April 6, 1962 in a four-to-three vote the Maryland High Court upheld the lower court's dismissal holding that Bible reading and the recitation of the Lord's Prayer in public schools did not violate the First Amendment of the U.S. Constitution. Furthermore, the majority noted that the revised rule, allowing students to be excused from the morning rituals, illustrated the non-compulsory nature of these programs. The majority opinion went on to say that previous

rulings of the United States Supreme Court, as seen in *Everson* (1947) and *Zorach* (1952) show that these types of programs fail to violate the Establishment or Free Exercise Clause of the First Amendment (Boles 1965, 99-103). Finally in addressing the plaintiffs claim that his Fourteenth Amendment rights were violated by the morning exercises, the majority opinion asserted: "...the Fourteenth Amendment does not provide protection from the 'embarrassment, the divisiveness or the psychological discontent arising out of nonconformance with the mores of the majority'" (Boles 1965, 104).

In explaining their dissenting opinion, the three judges held that the Maryland rule favored "one religion...against other religions and against nonbelievers in any religion" (Boles 1965, 104). The judges continued by saying that the morning exercises were unconstitutional as students were compelled, under state law, to attend school and were therefore a captive audience forced to be present for the morning activities. Moreover, the majority went on to say that in order to excuse a child from the morning rituals a parent and child would have to profess their disbelief in God which would put them against the majority who believe in God (Boles 1965, 104-05). After two failed attempts to have the morning routines invalidated, Murray appealed her case to the Supreme Court of the United States.

The Supreme Court Hears *Abington* and *Murray*

Over a period of two days in February of 1963, the High Court heard oral arguments in the cases of *Abington School District v. Schempp* and *Murray v. Curlett*. Kerpelman, Murray's attorney, argued that the *Engel* decision reinforced the wall of separation between church and state and that Maryland's rule violated the First Amendment. Henry Sawyer, the Schempp's ACLU attorney, with assistance from Leo

Pfeffer, argued that the Pennsylvania law was the state's way of establishing religion and providing preference to one religion over another. In addressing the school official's claim that the King James Version of the Bible was non-sectarian, Sawyer declared: "It is the final arrogance to quote constantly about our religious traditions and to equate those traditions with this Bible" (Dierenfield 2007, 176). To dispute Sawyer's claims, Philip Ward, the Abington School Board attorney, held that the daily Bible reading and recitation of the Lord's Prayer instilled students with "moral values" that combated Communism. He also claimed that the non-compulsory nature of the morning exercises allowed those children who objected to be excused. Questioning Ward's belief that the daily exercises were not religious, but moral, Justice Byron White commented: "If it is *only* moral, and not religious, they should be compelled to attend" (Dierenfield 2007, 176). As the oral arguments came to a close, Chief Justice Warren assigned the duty of writing the majority opinion to Justice Tom Clark. As a member of the Presbyterian Church and with roots in Texas, Warren felt that Clark would be better suited to pacify conservative critics (Dierenfield 2007, 176-77).

The High Court's Decision in *Abington* and *Murray*

On June 17, 1963, the Supreme Court announced its opinion to the public. By an eight-to-one vote, Justice Clark and the majority expanded the *Engel* decision holding that Bible reading and the recitation of the Lord's Prayer violated the First Amendment's Establishment Clause. Although *Murray* was listed on the High Court's docket first, Clark listed *Schempp* as the lead case to avoid an open endorsement of *Murray*'s professed atheism. His majority opinion was framed in a historical context that highlighted America's close ties to religion as reflected in the Mayflower Compact, U.S.

Constitution, and prayers in Congress and the Supreme Court. Clark, however, continued to explain that although the country had deep ties to religion, America also possessed a commitment to religious freedom as seen through the writings of James Madison and Thomas Jefferson (*Abington School District v. Schempp* 1963, 6). He then referred to the nineteenth century case of *Minor v. Board of Education of Cincinnati* (1872). After a mid-nineteenth century population increase left the public schools of Cincinnati, Ohio, overcrowded, the school board proposed a plan to merge the public schools, occupied by Jewish and Protestant children, with the Catholic parochial schools. Under this agreement Cincinnati's school officials enforced a ban prohibiting the reading of the King James Bible during school, a practice which upset many Protestants. As a result of the new policy, a lawsuit was filed in 1867 to reinstate Bible reading in the public schools. The Ohio Supreme Court upheld the school board's action asserting that the Ohio Constitution did not mandate, or prohibit, Bible reading. Here Judge Alphonso Taft declared: "The great bulk of human affairs and human interests is left by any free government to individual enterprise and individual action. Religion is eminently one of these interests, lying outside the true and legitimate province of government" (*Abington School District v. Schempp* 1963, 14).

In explaining the Court's position of "wholesome neutrality" in matters of religion, Clark listed previous rulings that shaped the Court's relationship to the First Amendment. For example, Clark described the *Cantwell* decision, which made the Free Exercise Clause of the First Amendment applicable to the states, and the *Everson* verdict, which addressed the federal government's relationship to the Establishment Clause (*Abington School District v. Schempp* 1963, 8). He continued by detailing the 1961 case

of *Torcaso v. Watkins* in which the majority stated: “We repeat and again reaffirm that neither a State nor Federal Government can constitutionally force a person ‘to profess a belief or disbelief in any religion’” (*Torcaso v. Watkins* 1961, 3). Addressing the Court’s most recent verdict in *Engel*, Clark reaffirmed the position of the majority, saying that the role of government should not be to further religion. In explaining the Court’s relationship with the Establishment Clause, Clark outlined the process of determining if a religious exercise violates the Constitution. Employing language that would become part of the *Lemon* (1971) test, he opined:

The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. (*Abington School District v. Schempp* 1963, 11)

Furthermore, in addressing the constitutional questions presented in the *Abington* case, Clark wrote: “...it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent...” (*Abington School District v. Schempp* 1963, 12). Quoting Madison’s “Memorial and Remonstrance Against Religious Assessments” he went on to emphasize “it is proper to take alarm at the first experiment on our liberties” (*Abington School District v. Schempp* 1963, 12).

Therefore in composing the verdict for the majority Clark declared: “We agree with the trial court’s finding as to the religious character of the exercises. Given that finding, the exercises and the law requiring them are in violation of the Establishment Clause” (*Abington School District v. Schempp* 1963, 11). He also said that the district’s

allowance of other forms of religious texts, namely the Douay Bible, and the amended statute, which permitted for the excusal of students, did not make the daily exercises secular in nature as the schools still promoted reading from the Bible, which in itself is a religious act. Although the Court found the practices in Maryland and Pennsylvania unconstitutional, the majority argument also specified that the Bible was a worthy text to study history (*Abington School District v. Schempp* 1963, 12). Finally, in holding that the views of the majority cannot infringe on the rights of the minority, Clark closed his opinion with a firm statement:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. (*Abington School District v. Schempp* 1963, 12-13)

Echoing Clark's majority argument was Justice Douglas who in his concurring opinion noted that the states, in both cases, were conducting a religious exercise, which "...cannot be done without violating the 'neutrality' required of the State by the balance of power between individual, church and state that has been struck by the First Amendment" (*Abington School District v. Schempp* 1963, 16). Furthermore, he went on to say that: "...public funds, though small in amount, are being used to promote a religious exercise" (*Abington School District v. Schempp* 1963, 16). The state's preference of one religion over another, Douglas believed, violated the Establishment Clause.

Similar to the opinions of Justices Clark and Douglas, Justice Brennan, in a more lengthy concurring opinion, wrote of the Court's "historic duty" of explaining the

constitutional boundaries between religion and the public school. After providing a historical record of the implementation and use of the Establishment Clause, Brennan noted the religious diversity found in the twentieth century:

Today the Nation is far more heterogeneous religiously, including as it does substantial minorities not only of Catholics and Jews but as well of those who worship according to no version of the Bible and those who worship no God at all...In the face of such profound changes, practices which may have been objectionable to no one in the time of Jefferson and Madison may today be highly offensive to many persons, the deeply devout and the nonbelievers alike. (*Abington School District v. Schempp* 1963, 20)

After detailing the previous decisions of the High Court in matters pertaining to public schools and religion, Brennan stated his opinion: “The religious nature of the exercises here challenged seems plain. Unless *Engel v. Vitale* is to be overruled, or we are to engage in wholly disingenuous distinction, we cannot sustain these practices” (*Abington School District v. Schempp* 1963, 30). “Indeed, I would suppose,” Brennan continued, “that, if anything, the Lord’s Prayer and the Holy Bible are more clearly sectarian, and the present violations of the First Amendment consequently more serious” (*Abington School District v. Schempp* 1963, 30).

In their concurring opinion, Justices Goldberg and Harlan expressed support for the High Court’s position of neutrality towards religion, but warned against the “...untutored devotion to the concept of neutrality” which could lead to a “...hostility to the religious” (*Abington School District v. Schempp* 1963, 65). In closing their opinion, Goldberg stated:

The First Amendment does not prohibit practices which by any realistic measure create none of the dangers which it is designed to prevent and which do not so directly or substantially involve the state in religious exercises or in the favoring of religion as to have meaningful and practical impact. It is of course true that great consequences can grow from small beginnings, but the measure of

constitutional adjudication is the ability and willingness to distinguish between real threat and mere shadow. (*Abington School District v. Schempp* 1963, 66)

Just as in *Engel*, the lone dissenter in *Abington* was Justice Potter Stewart who opened his opinion saying:

I think the records in the two cases before us are so fundamentally deficient as to make impossible an informed or responsible determination of the constitutional issues presented. Specifically, I cannot agree that on these records we can say that the Establishment Clause has necessarily been violated. (*Abington School District v. Schempp* 1963, 66)

In addressing the need for religious liberty Stewart agreed with Justices Goldberg and Harlan who asserted that the government's position of neutrality must not create "hostility to the religious" and noted that the failure to recognize the nation's strong ties to religion could be interpreted as violating the Free Exercise Clause. To extend his point, Stewart discussed the use of federal funds to employ military chaplains. He asserted that if the government failed to provide this service it could be viewed as prohibiting a soldier's free exercise of religion (*Abington School District v. Schempp* 1963, 68).

Stewart then, just as he did in his *Engel* dissent, criticized the majority opinion's reliance on the "wall of separation" metaphor. He stated: "The short of the matter is simply that the two relevant clauses of the First Amendment cannot accurately be reflected in a sterile metaphor which by its very nature may distort rather than illumine the problems involved in a particular case" (*Abington School District v. Schempp* 1963, 68). Stewart did not elaborate as to why he found the "wall of separation" to be a "sterile metaphor," yet, in *Thomas Jefferson and the Wall of Separation between Church and State*, Daniel Dreisbach quotes First Amendment scholar, Alexander Meiklejohn who elaborates on Stewart's description of the "sterile metaphor." Here Meiklejohn asserted that the Supreme Court's application of the metaphor has made it sterile and stripped it of "its

vital, organic essence” (Dreisbach 2002, 123). He went on to declare that Jefferson’s division between church and state has been tainted saying: “But men who claim to follow him have transformed his figure into one of mechanical divisions and exclusions. They speak of his wall as if it were made of brick or stone or steel. By doing so they cut off our spiritual education from its proper field of influence” (Dreisbach 2002, 123). Therefore it can be assumed that Stewart found the objector’s claim that the daily practices in Pennsylvania and Maryland violated Jefferson’s “wall of separation” sterile in nature, as the current interpretation of Jefferson’s metaphor was far from its original construction and meaning.

Continuing his dissent, Stewart went on to remind the Court that in both the *Abington* and *Murray* cases the state encouraged reading from the Bible, without comment, which was not a form of religious instruction. Supporting the excusal policies found in Pennsylvania and Maryland, Stewart held that both the morning exercises were non-coercive (*Abington School District v. Schempp* 1963, 68-73). In conclusion Stewart opined:

What our Constitution indispensably protects is the freedom of each of us, be he Jew or Agnostic, Christian or Atheist, Buddhist or Freethinker, to believe or disbelieve, to worship or not worship, to pray or keep silent, according to his own conscience, uncoerced and unrestrained by government...I think we must not assume that school boards so lack the qualities of inventiveness and good will as to make impossible the achievement of that goal. (*Abington School District v. Schempp* 1963, 73)

Reactions to *Abington* and *Murray*

Similar to the aftermath following the *Engel* verdict, news of the High Court’s ruling in *Abington* spread quickly. Celebrating his victory Leo Pfeffer, the famous civil liberties attorney, claimed that the decision marked: “the end of Christian hegemony and

the beginning of religious equality in the United States” (Dierenfield 207, 179).

Supporting the Schempp’s and Murray’s were many Protestant groups, like the General Assembly of the United Presbyterian Church which, even before the verdict was announced, issued a public statement supporting the separation of church and state.

Similarly C. Emanuel Carlson, the Executive Director of the Baptist Joint Committee on Public Affairs (at the time of “strict separationist” persuasion), praised the decision, as did the National Council of Churches which asserted that: “neither true religion nor good education is dependent upon the devotional use of the Bible” in the public schools (Dierenfield 2007, 179).

As was the case following *Engel*, a majority of the reactions to the decision came in the form of anger and resentment towards the High Court. Some who opposed the decision, like the southern evangelist Billy Graham, believed that it would interfere with the continued goal of fighting against Soviet Communism (Dierenfield 2007, 179).

Others like Alabama Governor George Wallace encouraged citizens to disobey the ruling. He proclaimed: “I don’t care what they say in Washington, we are going to keep right on praying and reading the Bible in the public schools of Alabama” (Dierenfield 2007, 181).

Resentment followed the decision and led to the growth of groups rallying to reincorporate prayer into the public schools. One of the most well-known of these programs was Project America, which was supported by South Carolina’s outspoken senator, Strom Thurmond. The decision also reinvigorated demands for Congressional hearings to amend the Constitution to permit prayer and Bible reading in America’s public schools.

Although the majority of Americans were moderate when expressing their dislike of the Court's edict, South Carolinians once again unleashed their unvarnished opinions of the decision and the justices through correspondence with both newspapers and political figures.

CHAPTER VI

SOUTH CAROLINA RESPONDS TO *ABINGTON* AND *MURRAY*

“In view of the erroneous interpretation placed on the First Amendment by the court and the confusion resulting therefrom [*sic*], the Congress must clarify the law and propose to amend the Constitution to make certain that we guarantee for all Americans freedom of religion rather than freedom from religion.”

U.S. Senator Strom Thurmond (D-SC)

In the months following the announcement of the *Engel* decision many South Carolinians found themselves engaged in another battle with the federal government, the desegregation of the state’s public schools. On January 9, 1963, as Governor Ernest “Fritz” Hollings presented his farewell address to the South Carolina General Assembly, the Fourth Circuit Court of Appeals heard opening arguments in the Harvey Gantt case. Referencing the changing times, Hollings asserted:

As we meet, South Carolina is running out of courts. If and when every legal remedy has been exhausted, this General Assembly must make clear South Carolina’s choice, a government of laws rather than a government of men. As determined as we are, we of today must realize the lesson of one hundred years ago, and move on for the good of South Carolina and our United States. This should be done with dignity. It must be done with law and order. (Edgar 1998, 538)

Gantt’s admission to Clemson University a few weeks later presaged the eventual desegregation of the state’s public schools. With the racial hierarchy slowly changing, South Carolina welcomed a new governor, Donald Russell.

In his first address to the General Assembly on January 29, 1963, Russell stressed the need for “economy in government” and reinforced the principle of local control in matters of education (Russell 1963, 2). Furthermore, he advocated the use of school district tuition grants saying: “I believe in local autonomy and in the right of a school district to pioneer” (Russell 1963, 8). Likewise, Russell emphasized the need for an increase in teacher salaries and the need for more trained health professionals (Russell 1963, 10-13). Although he never referenced the *Engel* decision or the ensuing battle over Bible reading and the recitation of the Lord’s Prayer in the public schools, Russell concluded his January 15, 1963, inaugural address with a plea that illustrated South Carolina’s affinity for religion. Russell declared: “I love South Carolina and her people. My prayer is God give me the health, the energy, the wisdom, the courage, and the vision to prove that love” (Russell 1963, 8).

Although citizens resumed their normal routines following the controversial June 1962 decision, South Carolina’s politicians continued to stress the importance of state rights and religion. For instance in his February 7, 1963, radio broadcast Senator Strom Thurmond asserted:

The most important domestic issue confronting the American people is the division of powers between the National and State Governments. This is the issue of States’ [*sic*] Rights—the problem of preserving the rights and powers of the several States against the ever-increasing usurpations of these powers by the National Government. (Thurmond 1963, 1)

Believing that the power of state rights had been: “...eroded considerably by the stretching of certain parts of the Constitution and the contraction [*sic*] of the 10th Amendment...” through federal court decisions, Thurmond proposed the creation of a Court of the Union (Thurmond 1963, 1). Among other things, Thurmond’s Court of the

Union would have the power to reverse U.S. Supreme Court decisions (Thurmond 1963, 2). Although the speech failed to identify which verdicts the Court of the Union would overturn, based on Thurmond's outspoken comments following the High Court's call for integration and ban on religious activities in the public schools, it could be assumed that Thurmond would have wanted the Court to overrule the majority verdicts in *Brown v. Board of Education* (1954) and *Engel v. Vitale* (1962). Similar to Thurmond, Lieutenant Governor Robert McNair also reiterated the close relationship between religion and education in a commencement address to Macedonia High School in Moncks Corner. In discussing how education is not a guarantee to financial or professional happiness, McNair asked the following rhetorical question:

What then is the ultimate aim of education? I recently read a statement which to me offers a splendid suggestion as to the ultimate aim of education- 'What we are is God's gift to us; what we make ourselves is our gift to God.' Would it not be a worthy and adequate aim to take the gifts He has given us-our bodies, our minds, our personalities, our talents-and so train and develop them that we in turn might make an acceptable gift to Him. (McNair, 1963, 7-8)

It was in this climate that South Carolinians learned of the High Court's decision granting a writ of certiorari to hear *Abington v. Schempp* and *Murray v. Curlett* .

Oral arguments in *Abington* and *Murray* occurred February 27 and 28 and differing from *Engel*, a year earlier, South Carolina's major newspapers included articles that alerted local citizens to the cases. The *Columbia State's* article "Court Told Prayer Ban a Threat to Heritages" and the *Charleston News and Courier's* article "School Prayers Protested" detailed the facts of the case and did not provide any insight into the feelings of South Carolinians regarding the topics of Bible reading or the recitation of the Lord's Prayer in the public schools (Associated Press 1963, 8-A; 2-A). Similar to the two other newspapers, the *Greenville News* featured the article "2 New Religion-In-School

Cases Open High Court Rift” which also outlined the facts of the cases (United Press International 1963, 14). Although South Carolinians reserved their comments in February, the announcement of the verdict on June 17, 1963, resulted in an outpouring of condemnation and elation over the Court’s further ban on religious exercises in the public schools.

Social Reactions to *Abington and Murray*

One day after the verdict was announced, the *Greenville News* included the following prayer in the section “Pause to Pray.” The prayer read: “Dear Lord, we thank you for your son Jesus Christ and what he means to us, the strength and comfort he gives to us. We don’t want to be selfish with this blessing. Guide us and show us how we can best witness for you. In Christ’s name, we pray. Amen” (Greenville Christian Ministers Association 1963, 1). With the verdict now public, the *Columbia State* and *Charleston News and Courier* offered the following front page articles “High Court Bans Prayer in Classroom” and “Religious Exercises Barred from Schools” to inform local citizens of the rulings (1963, 1A; 1A). The placement of both articles on the front page of the newspaper reflects the importance of this topic to the citizens of the state. In the days following the announcement of the verdict, articles found in South Carolina’s newspapers continued to highlight the state’s strong ties to religion. In the *Columbia State’s* article “S.C. Schools to Keep Prayers,” Attorney General Daniel McLeod commented on the state’s daily religious practices saying: “I know of no regulations by any school board requiring daily readings of the Bible or devotionals, although they are commonly performed in most of our schools” (McHugh 1963, 5-B). Admitting that he had not yet read the decision, McLeod maintained that: “...he could not see any reason for any

changes in customs being followed at present in the state” (McHugh 1963, 5-B).

McLeod’s comments were echoed by an anonymous Columbia school principal who asserted:

In some cases, a child is allowed to read a prayer of his choice; some teachers say the Lord’s Prayer with the children, some put the children in charge of the devotional exercise for each day, and some simply have the children read Biblical passages of their own choice...but participation is not required. (McHugh 1963, 5-B)

South Carolina’s reliance to the state rights doctrine was further reflected by the South Carolina Republican Party. Sharing their opinion in the article “S.C. GOP Leaders Condemn Court Prayer Ruling” the Issues and Positions Committee of the South Carolina Republican Party believed that Bible reading and the recitation of the Lord’s Prayer in the public schools were “certainly a matter to be left to local school authorities...” (Morton 1963, 10-A).

Differing from the outpouring of newspaper articles and letters to the editor following the *Engel* verdict, the *Charleston News and Courier* included few critiques of the *Abington* and *Murray* decisions. Nevertheless, two weeks after the High Court issued its decision, Charleston’s main newspaper included an article supporting the majority verdict. In “Educators Back High Court Ruling on Bible Reading” twenty-seven national religious and educational leaders shared their support for the decision saying: “The decision is a challenge to parents and religious leaders to rely on voluntary means, rather than government, to create religious conviction” (1963, 4-C). The few responses found in the newspapers of Columbia and Charleston were overshadowed by the more numerous reactions found in the *Greenville News*.

The day following the announcement of the verdict, the *Greenville News* included the article “Upstate’s Greeting to Court’s Ruling: Frown, Skepticism” which detailed the opinions of school officials and students who applauded the rulings as a means of upholding religious liberty. This sentiment was echoed by the outgoing Oconee County Superintendent of Education, T.V. Derrick who asserted: “...prayer and Bible reading should be a privilege of schools, but not a requirement” (News State Staff 1963, 2). Derrick went on further to say that he could not predict the future of religious exercises in the public schools as even the Walhalla School Board opened its meetings with prayer. The incoming superintendent of Oconee County, Fred Hamilton, believed that the Board would take no action to abolish prayer in the public schools (News State Staff 1963, 2). Expressing similar sentiments was local Abbeville High School valedictorian Edward Poliakoff who supported the majority decision saying: “It was unfortunate the court had to make a decision on such an emotional question, although since it was brought up, there was no other decision the court could make and still reaffirm the separation of church and state” (News State Staff 1963, 2). Differing from the opinions held by Derrick and Poliakoff, were other citizens and local school officials like Garlington [*sic*] Street School P.T.A. President Mrs. J. L. Cromer who asserted “...every country that has forgotten God has fallen captive to another nation...All our wisdom comes from God” (News State Staff 1963, 2). Similarly, Mrs. Frank Lanford, a first grade teacher, emphasized the need for daily devotionals during school hours saying: “Some children might not have an opportunity to hear Bible stories except at school,” while local businessman Frank Edwards correctly hypothesized that the Court’s decision would encourage parents to send their children to parochial schools “where they can get

religious training” (News State Staff 1963, 2). More reactions from citizens in the Up-State were documented in the article “Local Reaction to Court Ruling Varied,” where Circuit Court Judge T. B. Greneker of Edgefield emphatically stated his opinion to the Court’s decision:

It is horrible. It seems to me it is striking at the last vestiges of the religious foundation upon which this country has rested...What we ought to do is pay absolutely no attention to it. We should go by the dictates of our conscience and pay attention to God rather than the Supreme Court. (Shelton 1963, 10)

Ruth Donovan, a sixth grade teacher, seconded the judge’s call for resistance. She declared: “I feel the day is not complete unless the Lord blesses us and we ask for his guidance. As far as I am concerned I’ll continue to do as I have in the past unless I am ordered by officials to stop” (Shelton 1963, 10). Former high school principal, T. M. Nelson also asserted: “If there is anybody the children in the schools should pray for, it is the justices of the Supreme Court.” Former Superintendent of the Parker Schools, Dr. L. P. Hollis regretted that the issue was presented before the High Court. He opined: “I can see no possible harm in reading from the Bible” (Shelton 1963, 10). Similar to the reactions following the *Engel* decision, South Carolinians penned numerous letters to newspaper editors sharing both their contempt for and delight in the majority opinion.

Despite the lack of front page articles following the *Abington* and *Murray* decisions, South Carolinians in the Midlands voiced their disapproval of the verdicts through letters to the editor. Some letters like one from Mrs. Muriel Barnett of Surfside Beach reminisced about their own schooling experience: “When I went to school our teachers started the day with the Lord’s Prayer. I know all of the children learned something and received a great blessing from it” (Barnett 1963, 10-A). Other letters, like G. D. Varn’s, sought to rally South Carolinians against the decision. He wrote: “Don’t

you think it is now getting time to take a stand for God and for our country? At this rate what will we have left to leave for our children? In my opinion the best way to fight the un-American Supreme Court is to support ‘The Movement to Impeach Earl Warren’” (Varn 1963, 10-A). Varn’s sentiments were echoed by Melvin Benson of Hampton who asked South Carolina’s six delegates in the House of Representatives to introduce a bill that would impeach the Chief Justice (Benson 1963, 16-A). In a different vein, one Midland’s resident, Alba Wahl, believed that the verdict would only increase Communism in America:

When the vile “winds” of Communism have swept a land clean of love-love of its fellow man, love of country, love of God, and filled the vacuum it has made with hate and destruction-then, the country is dead! The latest gust of this abominable wind has shocked and staggered us. It would blast the Bible from our schoolrooms by muting the prayers on our lips. (Wahl 1963, 8-A)

Another letter from Charles Jones of Estill referenced the growing power of the federal government following other controversial Supreme Court edicts, namely *Brown*. In his letter written to Attorney General Robert Kennedy, Jones, who signed as “a disillusioned Southern veteran” penned: “...can it now be assumed that you and Brother John F. will station federal marshals, federalized National Guardsmen and regular army troops in our schools...to compel us to comply with this atheistic order?” (Jones 1963, 14-A) In the midst of letters deploring the High Court’s decision, were two distinguished notes praising the majority justices for upholding religious liberty.

In one of these letters, James Copeland of Woodruff correctly pointed out that: “The ruling of the Supreme Court does not bar Christ from the public schools” (Copeland 1963, 12-A). He continued: “I am of the opinion that the public schools have done little toward christianizing [*sic*] this nation. It is the homes and the churches that have carried

Christ into the public schools and kept them from being wholly secularized” (Copeland 1963, 12-A). Copeland closed with a firm statement: “A Christ that goes to school each day in human personalities will be worth much more to the preservation of our schools and America than all the prayers and scriptures said and read in the class rooms [sic]” (Copeland 1963, 12-A). Similarly, Rut [sic] Thomas’ letter addressed the concern that the decisions displaced God from the public schools. To refute these claims, Thomas asserted: “Our responsibility as parents is to see that God stays in our schools by training our children at home in sound religious beliefs” (Thomas 1963, 10-A).

Two days following the announcement of the Court’s ban on Bible reading and the recitation of the Lord’s Prayer, the *Charleston News and Courier* included an editorial composed by the newspaper’s editor, Thomas Waring. In comparing the *Abington* and *Murray* decisions to the *Brown* (1954) ruling, Waring stated: “We believe, however, that religion may be bootlegged in the schools precisely as freedom of association may be bootlegged elsewhere in society” (Waring 1963, 6-A). He continued: “The Supreme Court is determined that education should become a process under tight federal control...The justices not only want the federal courts to act as school boards, but as field supervisors in charge of secularization” (Waring 1963, 6-A). Similar to Waring’s editorial, local citizen Janie Brinton of Smoaks asserted: “Hasn’t the Supreme Court caused enough trouble already between the races? The majority are peace loving and law abiding citizens until now” (Brinton 1963, 10-A). Other letters like Gloria Dangel’s expressed the frequent complaint that the decision would lead to a rise in Communism. She said:

I’m sure Mr. Khrushchev and his cohorts must have smiled in mockery at the headlines in the papers of America recently...The time has come for us Americas

to cast off the cloak of gullibility and face facts, as the hand writing is on the wall. After all, Russia did not become communist overnight. (Dangel 1963, 8-A)

Not all citizens from the Low-Country, however, disagreed with the ruling. Harris Smith supported the decision saying "...it is only logical that our nation's highest court should prohibit our state from endorsing the religious doctrine of any particular group" (Smith 1963, 8-A). Smith went on to say that if the government came under the control of the Roman Catholic or Jewish faith, Protestants would seek the Supreme Court's protection from the destruction of their views (Smith 1963, 8-A).

The Up-State's *Greenville News* published similar letters to the editor. For instance, a letter from a local eighth grader commented: "When Jesus Christ said go to all the nations of the world and its people and teach them his prayer, note that he didn't say all the people except school children" (Vaughn 1963, 5). Fears of Communism could be heard in W.O. Adams' letter: "I think it is high time we strip the Supreme Court of some of its power before we are plunged into another Russia...If this race war keeps on the Communists will move in and take over" (Adams 1963, 2-D). Likewise the call to impeach Chief Justice Earl Warren also resounded in the Up-State as William Highsmith declared: "The 'court' must be stopped. They are anti-Constitution and anti-God! Let's impeach them and let's start with their ridiculous Chief Justice Earl Warren" (Highsmith 1963, 5). As local citizens expressed their reactions to the decisions, so too did religious figures throughout the state.

Religious Denominations React to *Abington and Murray*

In the days following the announcement of the verdict, South Carolina's denominational officials shared their opinions through articles and letters to the editor of

their local newspapers. For example, in the *Columbia State's* article "S.C. Schools to Keep Prayers" both Dr. Karl W. Kinard, president of the Lutheran Synod of South Carolina, and Arthur M. Martin, executive secretary of the Presbyterian Synod of South Carolina, hoped that the ruling would still permit "...voluntary prayer..." (McHugh 1963, 5-B). In the same article, Douglas P. Blackwell, director of public relations and program services with the Baptist Convention raised the question of enforcement, asking: "Who will handle enforcement-local officials or the Justice Department?" (McHugh 1963, 5-B) Concern regarding the decision was further illustrated in the article "Steps to End Freedom's End." The article, taken from the *S.C. Methodist Advocate*, claimed that the majority decision would lead to "The depreciation of religion, and the relegation of its practice to areas outside of the areas of conflict and involvement in daily life" (Brabham 1963, 16-A). Furthermore, in holding that the power of the federal government had superseded the power of the people, the article stated: "'government of the people, by the people, and for the people' has perished from...the earth" (Brabham 1963, 16-A). One of the more notable denominational leaders whose opinion was missing from *Columbia's State* newspaper was that of the President of Columbia Bible College, Dr. Robert McQuilkin. Dr. McQuilkin's son, J. Robertson McQuilkin, noted that he was not sure of his father's opinion of the decisions. Robertson McQuilkin did believe, however, that his father like "most Christians in the South," opposed the decisions, pointing out: "After all, his wife had taught Bible in public schools all over SC for years" (McQuilkin 2011, 1).

Fewer comments from denominational leaders were seen in the *Charleston News and Courier*. The reasons for the modest response could be due to the fact that prominent Catholics and Jews voiced their reactions to the High Court rulings in their own religious

publications. Nevertheless, in one letter to the editor of the *Charleston News and Courier*, B. L. Ardis, Senior Minister of the First Christian Church of Harleyville and Betaw Christian Church adamantly asked: “How are the children in public schools who live in homes where the Bible is not read to find out about God? Are they going to hear about Him in night clubs, or from hoodlums on the streets of our towns and cities?”(Ardis 1963, 4-C) The letter continued asking for those elected to Congress to curb the power of the Supreme Court: “Do we want a socialist government? Do we want an all powerful Supreme Court that cares nothing about God?” (Ardis 1963, 4-C). In answering his own question, Ardis closed his letter reaffirming his loyalty to God: “I shall be as Joshua of the Old Testament, ‘As for me and my house we will serve God’” (Ardis 1963, 4-C). Among the more outspoken leaders from the Low-Country was Reverend Heyward Epting, who in his July 7, 1963 sermon entitled “This Nation Under God,” decried the recent High Court decisions. In the sermon, Epting noted America’s close relationship to religion, dating back to the signing of the Declaration of Independence. In light of the recent High Court decisions, Epting said: “...the recent ruling by the Supreme Court against the reading of the Bible and praying in Public Schools, is another example of our alienation from the principles of our founding fathers” (Epting 1963, 2). As the sermon continued, Epting asserted that many “contemporary leaders” have forgotten America’s religious heritage, therefore making the country godless and secular (Epting 1963, 2). To combat the growing atheism, Epting closed his sermon with words of Christian encouragement:

We must remain a God fearing Nation if we are to live and if we are to remain great. We must remain a Christian Nation with Christian people flooding our cities, with Christian people filling every mountainside, with Christian people controlling every area of life. When we have Christian people taking hold we will

not have labor troubles, industrial strife, the deterioration of home life, and crime will be greatly reduced. (Epting 1963, 2)

Religious leaders in the Up-State shared many of their thoughts regarding the ban on Bible reading and the recitation of the Lord's Prayer in the public schools in the article "Local Reaction to Court Ruling Varied." Here Dr. Pierce E. Cook, Pastor of Buncombe Street Methodist Church, quipped: "I am afraid we are in the hands of the Philistines; the hair has been cut off and we can only pray it will grow back" (Shelton 1963, 10). Similar disapproval and shock over the majority opinion was expressed by Father Charles Goumenis of St. George Greek Orthodox Church and Dr. L. D. Johnson, Pastor of First Baptist Church in Greenville. The article closed with comments from L. E. Woodward, Pastor of the Second Presbyterian Church who feared that the decision would relegate children to a life without "...knowledge and respect for God..." and in light of this, Johnson supported a Constitutional amendment to preserve "...our foundation heritage of respect for God" (Shelton 1963, 10). Similar outrage was seen in Donald Weathers' June 29, 1963 letter to the editor of the *Greenville News*. As the Pastor of Wesley Memorial Southern Methodist Church in Greenville, Weathers expressed his discontent with the majority verdict proclaiming: "This decision is not one for liberty and freedom, but it appeases the godless forces which are determined to destroy morality and righteousness" (Weathers 1963, 4). In closing, he asked for a Constitutional amendment to permit Bible reading and the recitation of the Lord's Prayer saying: "Separation of church and state does not mean separation of God from the state or separation of the Bible from the moral life of our schools" (Weathers 1963, 4).

Other religious leaders communicated their opinions in the article entitled "Upstate's Greeting to Court's Ruling: Frown, Skepticism." Taking a more moderate

approach to the issue was the Reverend John C. Cooper who shared his opinion of the relationship between church and government. He maintained that “it just seems that the state not force religious beliefs on its citizens...Christianity is a matter of faith and personal choice; it neither needs nor desires the power of the state behind it” (News State Staff 1963, 2). Reverend E. Freeman Fortner of the Pentecostal Holiness Church echoed Cooper’s understanding of religious liberty. He pointed out: “If other various religions were presented in classrooms, Protestants would complain” (News State Staff 1963, 2). The article closed with comments from Dr. J. E. Rouse, a Baptist minister and president of Anderson College who declared: “This decision may seem extreme to some, but when it is analyzed, it is logical” (News State Staff 1963, 2).

In addition to voicing their opinions to local newspapers, religious denominations also used their yearly conventions to discuss the *Engel*, *Abington*, and *Murray* decisions. For example, the minutes from the 143rd Annual Session of the South Carolina Baptist Convention included numerous conversations regarding the Supreme Court’s rulings on the separation of church and state. In upholding the majority decisions in *Engel*, *Abington*, and *Murray* the organization held:

Baptists have been traditionally the staunchest supporters of separation of church and state. Now that we have become one of the largest denominations in the country our loyalty to this principle and our influence in strengthening and extending it should not be weakened. (South Carolina Baptist Convention 1963, 163)

The commitment to the separation of church and state was reaffirmed in the 1964 Annual Session where members were urged to: “...use every contact and influence toward a worldwide understanding of the nature and principles of religious liberty as the right of people individually...” (South Carolina Baptist Convention 1964, 186). Unlike the

forthright statement of the South Carolina Baptist Convention, many other religious organizations remained muted in their response to the High Court's decisions. For instance, the annual conventions of the Evangelical Lutheran Synod, Protestant Episcopal Church, Protestant Episcopal Church of Upper South Carolina, Reformed Presbyterian Church, and Methodist Church took no position on *Abington* and *Murray*. There is no ready explanation for the hushed response, and it could be assumed that the conventions lacked knowledge or interest in the rulings. Despite the silence of many Protestant denominations, one religious group challenged the High Court's decision to remove devotional Bible reading and recitation of the Lord's Prayer from the public schools.

Following the announcement of the *Abington* and *Murray* decisions the *Catholic Banner* published numerous articles that decried the rulings. In one particular article, "Court, Ruling Overlooks History," George Reed, the associate director of the National Catholic Welfare Conference's Legal Department, noted that the majority decision "...failed to recognize the proposition that the public school is not exclusively the agent of the state, but the mutual agent of the parents and the state," and that "This mutuality demands that interests of parents under the Free Exercise clause be given extensive consideration" (Reed 1963, 3). Reed continued to explain the impact of the case on Catholics in the *Charleston News and Courier's* article "Analysis by Catholic Authority: Supreme Court Bible Decision Ignores' Constitution's History." Expressing his fear of secular public schools, he stated: "Ignoring religion by silence may have as adverse an effect as outright hostile indoctrination." More comments from Catholic officials were found in the *Greenville News's* article "Upstate's Greeting to Court's Ruling: Frown, Skepticism." Among the other religious officials quoted in the article was Father Thomas

Tierney, a priest in Oconee and Pickens Counties. Upon hearing the High Court's decision, he asserted:

The Supreme Court interpretation is correct undoubtedly from a legal viewpoint, but to parents, educators and pastors, already overwhelmed by the frightening decline of morals and discipline among American youth, it seems a low blow. If America can be destroyed only from within, the First Amendment may well become the nuclear warhead. (Tierney 1963, 2)

South Carolina's Catholics continued to express their disapproval of the decisions through the coming year as seen in correspondence from Bishop Frances Reh of Charleston. In a May 1964 pastoral letter to all of South Carolina's Catholic Churches, he reaffirmed the need for Catholic parochial schools saying: "The child spends many hours of the day out of his home in the school...If he rarely or never hears or learns anything about God and his Catholic faith in the classroom, he can easily become less aware of the first place these should have in his life" (Reh 1964, 2). Reh closed his letter with a push for parochial schooling: "There is still the invaluable benefit of a God-centered education which so easily outweighs disadvantages. Think carefully and prayerfully about depriving your children of this safeguard for their life here and in eternity" (Reh 1964, 5). Reh's letter echoes a shift among Catholic leaders who had once charged the public schools of being "Protestant," but in light of the recent Supreme Court edicts now viewed the public schools as "Godless." As Catholics encouraged parochial schools as a means to combat the growing secular nature of the public schools, South Carolina's Jewish community continued to praise the decision as a means of strengthening the wall of separation between church and state.

Reacting to the *Engel* decision, the Joint Advisory Committee of the Synagogue Council of America and the National Community Relations Advisory Council in 1963

released a publication entitled “Creeds and the Classroom.” It explained that religious practices in the public schools were not just a recent problem, but that non-denominational prayer, Bible reading and the recitation of the Lord’s Prayer had long been contentious religious exercises for many minority religions (Joint Advisory Committee of the Synagogue Council of America and the National Community Relations Advisory Council 1963, 1-4). Furthermore, the pamphlet underscored the fact that separation of church from state does mean a more secular society, instead “...it is essential that government and all of its institutions refrain from taking sides, not only between one religion and another, but between religion and irreligion” (Joint Advisory Committee of the Synagogue Council of America and the National Community Relations Advisory Council 1963, 7). The reactions of the Jewish community to the *Engel* decision and the impending rulings in *Abington*, and *Murray* were also expressed through sermons. In one such sermon, entitled “In Anticipation: The Supreme Court and the Lord’s Prayer, Plus Bible Reading,” Rabbi Burton Padoll of KKBE Synagogue of Charleston believed that in light of the *Engel* decision the High Court would also strike down Pennsylvania’s Bible reading statute and Maryland’s provision for the recitation of the Lord’s Prayer. Similar to his comments following the *Engel* decision, Padoll once again expressed fear that Jews would be blamed for the upcoming decisions. He opined:

When this ruling is handed down, public reaction will undoubtedly be negative and vociferous. The average American Protestant will feel that his religious beliefs and practices have been attacked by the Court...we can certainly expect some accusations that Jews are primarily responsible for the decision...(Padoll 1963, 2)

With the *Abington* and *Murray* decisions pending the Jewish community awaited the Court’s verdict.

On June 21, 1963, four days after the verdict was announced, Dr. Lewis Jones, President of the National Conference of Christians and Jews released a statement which said in part: “We treasure the guarantees in the First Amendment of the Constitution and appreciate the role of the Supreme Court in protecting religious liberty” (Jones 1963, 1). He went further to say, “The decision does not endorse irreligion or atheism in America,” and “...challenges parents and religious leaders to shape and strengthen spiritual commitment by reliance on voluntary means...” (Jones 1963, 1-2). Other comments from members of the Jewish community were found in the *Greenville News*’ article “Local Reaction to Court Ruling Varied” where Rabbi Sherman Stein of the Temple of Israel asserted that the decision was: “...a summons to all religious groups to do a better job of training our children in our home, churches and synagogues” (Shelton 1963, 10). As denominational groups continued to make sense of the High Court’s decisions, state and national politicians shared their opinions of the Court’s ban on devotional Bible reading and the recitation of the Lord’s Prayer.

Political Reactions to *Abington* and *Murray*

Although many of South Carolina’s politicians expressed their opinions of the *Abington* and *Murray* decisions, some state leaders remained silent. For instance, the personal and professional papers of outgoing Governor, Ernest “Fritz” Hollings were surprisingly quiet regarding the High Court’s ban on devotional Bible reading and recitation of the Lord’s Prayer. This muted response mirrored Hollings’ reaction to the *Engel* case a year earlier. No clear explanation exists as to why Hollings remained silent, but it could be speculated that he was either unaware of the Court’s edicts or that he perceived his constituents to be uninterested in the Court’s rulings. The state’s incoming

governor, Donald Russell did, however, make public comments following the decisions. In the *Greenville News*' article "Reactions in Congress, S.C., Among Religious Leaders," Russell said: "It is unfortunate that the trend of recent decisions of the Supreme Court seems to lessen the public influence of religion in society" (The Wire Services, 1963, 1). He went on to say that despite the Court's ban on Bible reading and recitation of the Lord's Prayer, South Carolina's public schools should continue to promote "...greater individual efforts in practicing those religious fundamentals which have made our country great" (The Wire Services 1963, 1). One year later, Russell's position remained the same. In a constituent letter to Anne Kennedy of New Ellenton, South Carolina he wrote:

I share your deep concern about the Supreme Court's ruling proscribing prayer in our public schools, and I wish I knew some suggestion to make to you about how we might overrule the Supreme Court...I believe, however, that the decision will be often flaunted in our public schools, and I doubt that the decision will ever be really enforced. (Russell 1964, 1)

Similar to Hollings, Lieutenant Governor Robert McNair did not offer any immediate comments following the announcement of *Abington* and *Murray*. Yet in a statement two years later, while Governor of South Carolina, McNair proclaimed the state's religious underpinnings. In his September 22, 1965 statement recognizing National Bible Week, McNair observed:

South Carolina has long been recognized as a state whose people have a firm foundation in religious conviction. Among the most prized possessions of our people is the family Bible...Knowing that every minute devoted to reading the Bible is time profitably spent as the unequalled guide and comfort...I urge and encourage all South Carolinians to fit time for reading the Scriptures into their busy schedules regularly. (McNair 1965, 1)

One of South Carolina's more outspoken opponents of the 1962 *Engel* decision was Attorney General Daniel McLeod. He did not, however, offer many public comments regarding the 1963 decisions. Nevertheless, in an untitled speech given before the South Carolina Association of School Boards in January of 1967, McLeod asserted:

The chief concern of school officials in recent years has been the Federal-State relation in education. This is a problem which never should have arisen for, in actual point of fact, the Federal government has no legitimate concern in the administration of school affairs. But, the Federal authority holds the purse strings and, as long as that is the case, we will have the problem before us. (McLeod 1967, 1)

The most outspoken of all of South Carolina's state-wide officials was Superintendent of Education, Jesse Anderson. In a *Greenville News* article entitled "Reactions in Congress..." Anderson noted that the *Engel* decision and the more recent verdicts in *Abington* and *Murray* had no impact on daily practices in South Carolina's public schools. He asserted: "South Carolina will continue to feel free to do in each school or classroom the normal thing which the teacher feels should be done" (The Wire Services 1963, 1). Anderson's continued disapproval of the High Court's edict was further reflected in his correspondence with concerned South Carolinians. In one such exchange in 1962, Robert Fairey of Latta wrote Anderson to express his apprehension regarding the impending decisions in *Abington* and *Murray*. In response to Fairey's distress, Anderson proclaimed South Carolina's adherence to the doctrine of state rights: "No court has ruled that the reading of the Bible or praying the Lord's Prayer is prohibited in the schools of South Carolina... You know there are some other federal court rulings that in South Carolina we do not accept and therefore we don't comply with

all the rulings....” His endorsement of the state rights doctrine was also evident in a January 1963 letter to Sam Lambert, Director of the National Educational Association:

This matter of having a prayer in classrooms or in a chapel program is the responsibility of the local school authorities...it has been voluntary on the part of the principals and teachers. It is my opinion that the Bible is still read in many classrooms and prayer is offered by local school personnel as they see fit without any state regulations or suggestions. (Anderson 1963, 1)

Anderson’s defiance of the Court’s rulings was also obvious in his letter to Retta Crowe, a fourteen-year-old student at Liberty High School: “It is my understanding and that of lawyers with whom I have talked that the Court ruling did not at this time affect South Carolina where no school board requires the Bible to be read nor...the Lord’s Prayer to be repeated” (Anderson 1963, 1). Despite Anderson’s outspoken defense of state prerogatives in the realm of religion and public education, members of the South Carolina General Assembly remained virtually quiet about the decisions. South Carolinians did, however, express their opinions of the decisions to their representatives in Washington.

South Carolina’s Senators and Representatives in Washington were more vocal in expressing their dislike for the Court’s rulings. Ten days following the announcement of the verdict, Robert Hemphill, South Carolina’s Representative from the Fifth Congressional District, gave a speech on the importance of the Bible to the House of Representatives Prayer Group. In explaining his topic, he stated: “My choosing of this subject was inspired by the realization of the application of the words of the Bible to every problem we have, even in the modern and complex world which we live in today” (Hemphill 1963, 1). After discussing the importance of the Ten Commandments, the Old Testament and the New Testament, Hemphill reaffirmed his reliance to the Bible saying: “You and I are in the Bible and it is God’s intent that Bible should be in you and in me,

alive, daily signposts and guideposts along the road of life” (Hemphill 1963, 6). His choice to address the entire House Prayer Group on the importance of the Bible further illustrates South Carolina’s strong ties to religion.

Concerned over the Supreme Court’s decision and what he believed was a growing trend toward secularism in the United States, Congressman Albert Watson of South Carolina’s Second Congressional District introduced legislation to halt the growing power of the Court. According to Watson’s legislation, upon a vacancy on the bench of the United States Supreme Court, state chief justices would nominate three persons who they believed should be placed on the High Court. Based on all of the nominations, members of Congress would then cast a vote for the justice of their choice. The justice receiving the majority of the votes would then be elected to serve on the bench for a twelve year term. Watson defended his proposal saying that by imposing term limits on the justices they would be held to the same demands as members of Congress. Furthermore in justifying his legislation he asserted that this method “...would help eliminate the irresponsible and unconscionable decisions that come too frequently from our Supreme Court” (*State’s Washington Bureau Correspondent 1963, 12-A*). Watson continued to criticize the justices who signed the majority opinion saying that they have “...trampled the rights of the overwhelming majority of our people to award a hollow victory to a handful of self-professed atheists” (*State’s Washington Bureau Correspondent 1963, 12-A*). Watson’s legislation, however, was not discussed further in the papers of any South Carolina Congressmen, and therefore it is assumed that his legislation died quietly.

Just as Watson had proposed a way of limiting the power of the Supreme Court justices, Representative Robert Ashmore of South Carolina's Fourth Congressional District also introduced a bill in the days following the announcement of *Abington and Murray*. Proposed June 25, House Resolution 7252 stated: "...That the Architect of the Capitol is hereby authorized and directed to have the phrase 'In God We Trust' inscribed ...above the bench in the courtroom of the United States Supreme Court Building" (Ashmore 1963, 1). He explained the purpose of his legislation in the *Charleston News and Courier*: "These simple words are indicative of the faith of the overwhelming majority of the people of our great nation. I cannot see how any member of Congress, or anyone else, can object to such a profound and reverent truth" (Associated Press 1963, 6-B). As 1963 came to a close, Ashmore's bill was still pending and he addressed the importance of his legislation in a speech before Congress on November 12. In his remarks, Ashmore shared a letter written by Chief Justice Earl Warren to the Architect of the Capitol. After hearing of the proposed resolution, Warren commented: "...After consulting with all the members of the Court, I advise you that I would not approve the bills or the inscription referred to therein" (Ashmore 1963, 1). Explaining his position, Warren said that the inscription would detract from the "...beauty and symmetry consistent with the purpose for which the Building was to be devoted" (Ashmore 1963, 1). Addressing Warren's letter, Ashmore maintained: "But when we reach the point where we must choose between 'beauty and symmetry', and the simple recognition of God, then the choice must inevitably be, God" (Ashmore 1963, 2). Although Ashmore's legislation failed in 1963, he would resubmit the same bill in 1965, where it received a more favorable reception.

Surprisingly, the personal and professional papers of L. Mendel Rivers, South Carolina's First Congressional Representative, were silent regarding the ban on Bible reading and the recitation of the Lord's Prayer in the public schools. No explanation is obvious as to why Rivers did not comment on the 1963 decisions given his harsh remarks regarding the 1962 *Engel* ruling. Perhaps Rivers believed his constituents were not interested in the verdict or maybe he knew that South Carolinians would continue to disobey the mandates of the Supreme Court. Nevertheless, Rivers' colleague in the House, William Jennings Bryan Dorn, did comment on the 1963 decisions.

As the most outspoken member of South Carolina's delegation in the House of Representatives, Dorn, from South Carolina's Third Congressional District, received the largest amount of correspondence from constituents in the aftermath of *Abington* and *Murray*. His files contain numerous letters from disgruntled citizens. In one such letter, George Park of Greenwood expressed alarm over the recent verdict and asked Dorn what the citizens of South Carolina could do to nullify the decision. In response, Dorn opined: "About the only thing that people back home can do is to pray more in their churches and homes" (Dorn 1963, 1). He finished his letter by informing Park of Congressman Ashmore's proposed bill to inscribe the words "In God We Trust" above the United States Supreme Court bench. In another letter, Soren Jorgensen of Greer asked Dorn if devotional programs offered in the local public schools would be a violation of the High Court's edicts (Jorgensen 1963, 1). In response, Dorn boldly said: "Very frankly, I would advise our schools and teachers to go right ahead and have Prayer and Bible reading. Communism is atheism" (Dorn 1963, 1). Dorn's fear of the rise in secularism was also exhibited in his response to Hugh Lane, Chairman of the Board of The Citizens and

Southern National Bank in Charleston: “We are losing our freedom in the name of fighting a dictatorship. You can count on us to do our best in this rear guard action” (Dorn 1963, 1). Interspersed among Dorn’s correspondence with local citizens was a note from the Board of Deacons of the Fort Johnson Baptist Church of James Island. Disagreeing with the predominant opinion of Baptists, the Deacons compared *Abington* and *Murray* to the *Brown v. Board of Education* (1954) decision saying: “By their action they have just as effectively put God outside our Public School buildings as they put negroes into our schools...” (The Board of Deacons 1963, 1). The Board closed its letter asking that the members of Congress to recognize “freedom of religion” and not “freedom from religion” (The Board of Deacons 1963, 1). Six months following the verdict, Dorn’s actions continued to reflect the concerns expressed by his constituents. In a speech before the House of Representatives, entitled “Prayer and Bible Reading in Our Public Schools,” he urged the Congress to adopt New York Congressman Frank Becker’s proposed constitutional amendment permitting prayer and Bible reading in the public schools. In support of the Becker Amendment Dorn stated:

Our teachers are dedicated to the American way of life. They know that the Founding Fathers of this country never intended for prayer and Bible reading to be banished from our schools. I have never visited a public school as a speaker without having the Bible read and prayer offered. This is a basic, fundamental, and necessary freedom. It must be preserved. (Dorn 1963, 1)

South Carolina’s two Senators, Olin Johnston and Strom Thurmond, were even more outspoken than Dorn. Differing from his moderate response following the *Engel* decision of 1962, South Carolina’s senior senator, Olin Johnston, was much more candid in expressing his disapproval of the High Court’s decisions in *Abington* and *Murray*. In a June 17 published statement, Johnston censured the ruling and equated it to Communism

saying: “One of the basic policies of Communism [sic] is to neutralize, belittle and impair religious activity in order to conquer the minds of people, and make them oblivious of almighty God” (Johnston 1963, 1). One day later, Johnston used his June 18, 1963 radio show to continue to deplore the ruling. He asserted: “The Supreme Court has placed itself above the Constitution of the United States and has driven itself as a wedge between our school children and God” (Johnston 1963, 3). Johnston also encouraged South Carolinians to defy the decisions. In his *A Washington Letter*, he wrote: “Despite the Supreme Court ruling, I am urging school teachers and schools to continue the reading of the Bible and to continue praying in the classrooms” (Johnston 1963, 1). He went on to say that since there was no penalty for disobeying the Court’s edict, school officials should continue with their normal routines. Afraid that the decisions might open the door for more lawsuits that would remove the “Under God” phrase from the Pledge of Allegiance and the motto “In God We Trust” inscribed on currency, Johnston reaffirmed the country’s dependence on God. He ended his newsletter by informing constituents of his impending resolutions that would: “...preserve and protect references to the reliance upon God in our government, and to permit the reading of the Holy Bible and the offering of prayer in public schools...on a non-sectarian basis” (Johnston 1963, 2). With Johnston’s disapproval well noted, his constituents used the weeks and months following the decisions to voice their condemnation of the Court’s ban on Bible reading and the recitation of the Lord’s Prayer.

The bulk of letters received by Johnston decried the majority decision and reprimanded those justices associated with the decision. Many letters, like the one from Bob McClure of Greenville, associated the ruling with Communism: “It is high time

Congress should strip the Supreme Court of its dictatorial powers before we are plunged into another Russia. The Communistic atheism trends of our Supreme Court must be resisted now” (McClure 1963, 1). Other letters like one from Mrs. Robert Clark of Johnston, were more tamed. She asked: “Is there anything that the American people can do to reverse this decision? Can this be put to a vote by the American people?...I am truly frightened about what is going to happen to this country of ours” (Clark 1963, 1). Even local school children mailed Johnston notes of concern. For example, Miss Silvia Dillard remarked: “Thank you very much for your stand against the ban on prayers in school. I am still in school, and I feel prayer starts the day off right...Thank you very much for your time, and keep up the good fight” (Dillard 1963, 1). Most of Johnston’s responses mirrored the reply mailed to Sara Dell Patton of Fountain Inn:

Thank you for your letter...concerning prayers and bible reading in the school class rooms [*sic*]. I thoroughly agree with you that prayer and bible reading should be a part of our school program and I have urged the schools in my State to continue doing this in spite of the Supreme Court’s decision. I am hopeful that this decision will be overruled in the future. I am certainly doing everything I can towards this end. (Johnston 1963, 1)

Interspersed among his constituent mail were numerous letters and petitions from churches that decried the ruling, such as Elko Baptist Church and Morningside Baptist Church of Greenville.

Despite the large number of letters and petitions mailed to Johnston, South Carolina’s junior Senator, Strom Thurmond, received the largest amount of correspondence following the June decisions. In the months leading up to the announcement of the verdict, Thurmond was quite vocal in his defense of state rights. For instance, in his February 11, 1963 “Report to the People,” he declared that the most

important issue facing the people was the “...issue of States’ Rights—the problem of preserving the rights and powers of the several States against the ever-increasing usurpations of these powers by the National Government” (Thurmond 1963, 1).

Thurmond went on to say that the principle of state rights had been restricted by the decisions of the Executive and Judicial branches (Thurmond 1963, 1). His comments were in reference to the High Court’s rulings in *Brown* (1954), *Engel* (1962) and the impending cases of *Abington* and *Murray*. In the following month, Thurmond once again referred to the Pennsylvania and Maryland cases. In his March 8, 1963 television clip he asserted: “Now pending before the Court are two cases which could give secularists in this country, those who desire to remove God from our national life, their greatest victory to date” (Thurmond 1963, 1). A few days later, in his weekly radio broadcast and newsletter to constituents Thurmond elaborated on his growing fear of secularism. In his radio broadcast he claimed: “Now we are being told / that we must remove acknowledgement of God from our national life / in order to appease secularists or atheists, who are not even required to participate in these public school acknowledgements” (Thurmond 1963, 1-2). Similarly in his March 10, 1963 newsletter, “Strom Thurmond Reports to the People,” he declared: “I am repulsed by the false notion that we should destroy the pillars on which our liberties rest in order to advance some cause in the name of liberty. Such actions constitute a fraud and sham not only on God, but also on liberty itself and the people of America” (Thurmond 1963, 2). Thurmond’s remarks only intensified once news of the High Court’s verdict was made public in June 1963.

In the wake of the Court's decisions, Thurmond used a June 21, 1963 television address to respond to the rulings. He said: "In an effort to offset this decision, I have proposed an amendment to the Constitution to permit non-sectarian prayers and Bible reading in schools on a voluntary basis" (Thurmond 1963, 1). Thurmond's legislation along with Senator Johnston's proposed resolutions were superseded by Congressman Becker's proposed amendment that was discussed in more detail during the 1964 Congressional hearings. In many of Thurmond's publications after the June 17, 1963, decision he expressed worry that the High Court's ban on state-sanctioned, non-denominational prayer, Bible reading, and recitation of the Lord's Prayer would lead to other actions such as prohibiting the singing of the fourth stanza of "America" and the recitation of the Pledge of Allegiance with its phrase "Under God" (Thurmond 1963, 1). It was in this environment that concerned South Carolinians mailed volumes of letters and petitions to their highly vocal senator.

In the months following the announcement of the verdicts, South Carolinians of all ages expressed their disapproval of the majority decision. For example, Carol Ann Lee, a seventh grader living in Piedmont, composed a letter praising her teacher who stressed the importance of God everyday (Lee 1963, 1). Thurmond praised the teacher's actions and responding to Lee said: "I have been very impressed by your letter and the wonderful work your teacher is doing with regard to the teaching of respect and love for God and faith. I just wish we had more teachers like this all across America" (Thurmond 1963, 1). Another letter from Mrs. John Brennan of Greenville, echoed Thurmond's concern regarding the growing trend towards secularism. As seen in his response to Brennan, and many other constituents who disagreed with the majority verdict,

Thurmond replied: “Please be assured that I will do all I can to rectify this decision which further sets up America for takeover by atheists and secularists who are more concerned with materialism than freedom and spiritual values” (Thurmond 1963, 1). Other letters, like one from E. O. Hudson of Orangeburg, asked: “I was always taught that the Congress of the United States made the laws of our Country. When was it changed that the Supreme Court made the laws?” (Hudson 1963, 1). Some letters, like Mrs. Jack Frierson’s, were more fiery than others. She declared: “This is ‘discrimination’ against the men and women who settled our country and made it great and against those of us who are trying to make it great again” (Frierson 1963, 1). To those constituents who asked Thurmond if he would support Congressman Ashmore’s proposed legislation to add the words “In God We Trust” over the bench of the United States Supreme Court Thurmond responded as he did to Wendell Tiller: “You may be assured that I will certainly give my full support to Congressman Ashmore’s legislation. Nothing would please me more than to have a part in pasting the motto over the head of Mr. Warren” (Thurmond 1963, 1).

Interspersed among Thurmond’s constituent correspondence were petitions from local congregations that protested the decision. Some petitions, like those from Bethel Methodist Church in Walterboro, St. John’s Episcopal Church of Columbia, the Columbia Chapter of the Knights of Columbus, and the South Carolina Veterans of World War I, all praised Thurmond’s efforts to prevent secularism and Communism from infiltrating into America. Other petitions, like ones from the Steadfast Bible Class of North Trenholm Baptist Church of Columbia and the Ashleigh Baptist Church of Blackville, asked Thurmond for a remedy to nullify the High Court’s decision. The

petitions from local Baptist congregations illustrate a split of opinion in the Baptist community. Although the South Carolina Baptist Association praised the *Engel*, *Abington*, and *Murray* decisions as a means of preserving religious liberty, some Baptist churches within the Palmetto State decried the ruling and sought a remedy to permit religious activities within the public school. In a June 19, 1963 telegram to the local newspapers of the Palmetto State, Thurmond informed his constituents of his method to combat the *Abington* and *Murray* decisions. Issued by his Administrative Assistant, Harry Dent, the telegram read:

Senator Strom Thurmond today proposed an amendment to the United States Constitution which would permit Bible reading and non-sectarian prayers on a voluntary basis in public schools. Thurmond's proposal would in effect change last year's and this year's decision of the Supreme Court against the use of prayers and the Bible in public schools. (Dent 1963, 1)

Both Thurmond and Johnston's proposed constitutional amendments to permit non-sectarian voluntary prayers and Bible readings in the public schools were overshadowed by Congressman Frank Becker's amendment. With more than 500 proposals submitted, a series of hearings were held in 1964 to discuss amending the United States Constitution to permit voluntary prayer and Bible reading.

The 1964 Congressional Hearings

In the aftermath of *Engel*, *Abington*, and *Murray* the House of Representative's Committee on the Judiciary held a series of hearings, which took place between late April and early June of 1964, to discuss proposed legislation that would amend the United States Constitution to permit Bible reading and prayer in the public schools. As mentioned earlier, both Senators Olin Johnston and Strom Thurmond submitted individual proposals to allow voluntary non-sectarian prayer in the public schools. In

addition to the legislation submitted by South Carolina’s senators, South Carolina’s members of House of Representatives also submitted proposals to amend the United States Constitution. For example, Representative Mendel Rivers submitted two amendments that stated: “Nothing in this Constitution shall prohibit the offering of prayers in any public school or other public place” while the second clause permitted the “...listening to prayers or biblical scriptures...” (House Committee on the Judiciary 1964, 3; 33). Representative Robert Hemphill offered three joint resolutions. The first set out to reaffirm the country’s dependence on God. It read: “Nothing contained in the Constitution shall be construed to prohibit any reference to belief in or reliance upon God...in any governmental or public document, proceeding, or ceremony, or upon any coinage, currency, or obligation of the United States” (House Committee on the Judiciary 1964, 11). Hemphill’s second amendment specifically addressed the *Engel* and *Abington* decisions by advancing the notion that students be allowed to participate in “...the reading...of the Holy Bible, or in the offering of nonsectarian prayer, if such participation is voluntary” (House Committee on the Judiciary 1964, 12). His last resolution sought to specifically nullify the *Abington* decision by allowing “...the reading from, or listening to prayers or biblical scriptures...on a voluntary basis...” in any public school (House Committee on the Judiciary 1964, 25). William Jennings Bryan Dorn’s proposed amendments were similar to the legislation proposed by Congressmen Rivers and Hemphill. Out of the numerous proposals suggested, the one piece of legislation that received the most attention was composed by Representative Becker of New York. The proposal, known as the Becker Amendment, read: “Prayers may be offered in the course

of any program in any public school or other public place of the United States” (House Committee on the Judiciary 1964, 1).

As the Judiciary Committee, led by Chairman Emanuel Celler, reviewed the volume of amendments submitted by United States Congressmen, it also held a series of hearings in which politicians and religious leaders appeared before the committee to express their approval or disapproval of the Becker Amendment. Among those from South Carolina who testified before the committee was Representative Mendel Rivers, who stated that in the aftermath of *Engel, Abington, and Murray*: “...the religious faith of the Nation has been subjected to judicial interpretations that deny our heritage, defy our traditions, undermine our beliefs, ridicule our religious resolve, and make a mockery of the faith of our Founding Fathers” (House Committee on the Judiciary 1964, 638).

Holding that the High Court’s decision prohibited “free exercise” of religion, Rivers justified his amendment declaring:

The amendment which I propose will permit our present generation of young and generations of those yet to be born to be reminded that they are but human beings in a universe presided over by a Supreme Being who has guarded the destinies of their ancestors from time immemorial. (House Committee on the Judiciary 1964, 639)

Rivers’ remarks were seconded by Representative Albert Watson, who in a much bolder speech on May 6, 1964, asked:

Is the day coming when all public expression of belief in God must be suppressed for fear of offending the atheist and thereby violate his alleged constitutional right? Must Christians be again driven to the catacombs for religious worship? Must the vast majority of Americans be forced to the inner recesses of their churches or synagogues to express their faith in Almighty God? (House Committee on the Judiciary 1964, 1072)

Watson then compared the *Engel, Abington, and Murray* verdicts to the High Court’s 1954 *Brown* ruling, as in all four cases the majority opinions contradicted popular

opinion and the traditional roles of race and religion (House Committee on the Judiciary 1964, 1074). Unable to testify in person, Representative Dorn submitted written remarks to the committee. His comments reflected the religious character of the state holding that the daily activities of many school children included prayer and Bible reading. In closing his remarks, Dorn asked the House Committee to consider his proposal to amend the Constitution (House Committee on the Judiciary 1964, 1791-792).

As the hearings in Washington continued, South Carolina's politicians and citizens continued to express their disapproval of *Abington* and *Murray*. Some critics, however, supported the decisions and condemned the Becker Amendment. For example, several South Carolinians urged Representative Dorn to oppose the Becker proposal. Lewis Hill, a Professor of Economics at Clemson University, asked Dorn to reconsider his support of the Becker Amendment. He proclaimed: "As a Baptist, firm [*sic*] committed to the historic doctrine of absolute separation of Church and state, for which our ancestors [*sic*] died, I hope you will reconsider your support for these measures" (Hill 1964, 1). Hill's position was reaffirmed in a letter from Ruth Provence, the Executive Secretary of the Women's Missionary Union. As a part of the South Carolina Baptist Convention, Provence wrote Dorn to express her concern about the Becker Amendment. She opined: "I believe that the Becker Amendment and other proposed amendments would open the way for stipulations and controls that could very seriously affect personal liberties and the future of this nation in government encroachment in the sphere of religion" (Provence 1964, 1). Another letter to Dorn from a Columbia resident, Donald Pearce, lambasted the Becker proposal saying: "I am opposed to legally mandatory public school prayers. I am opposed to efforts to change our Constitution

whenever the Supreme Court renders a decision which though rational and logical is opposed to the immediate desires of some persons” (Pearce 1964, 1). Echoing these letter writers, was the Catholic Press Association who also disapproved of the Becker Amendment. The Association, a national news agency that provided news articles to Catholic newspapers including *The Catholic Banner*, claimed that the Becker Amendment would “...create confusion, with regard to the proper roles of Church and State” (National Council Welfare Committee News Service 1964, 4). The Association’s call for more secular public schools illustrates a split from its response following the 1963 rulings. After condemning the High Court’s decision to ban Bible reading and recitation of the Lord’s Prayer from the public schools, the Catholic Press Association, in a bewildering move one year later, spoke out against the Becker Amendment which would permit voluntary prayer in the public schools.

South Carolina’s senators received many letters from constituents supporting the Becker Amendment. Some of the letters, went so far as to ask the senator’s to sign the Discharge Petition #3, which would release the Becker Amendment from committee and allow a vote to take place. Through the well organized efforts of the National Baptist Association and the National Council of Churches, the Amendment was never able to garner enough signatures to be released from committee. Therefore, a vote never occurred and the Becker Amendment died.

While citizens and denominational leaders debated the impact of *Engel*, *Abington*, and *Murray* on the state’s relationship to religion, South Carolina’s State Department of Education attempted to understand the decisions and their influence on the daily operation of the public schools. In April of 1964, Grady Patterson, South Carolina’s

Assistant Attorney General, responded to Superintendent of Education, Jesse Anderson who asked if the United States Supreme Court's decisions declared the recitation of the Lord's Prayer and Bible reading unlawful in the public schools of the state. After detailing the facts and the High Court's rulings in the *Engel*, *Abington*, and *Murray* cases, Patterson declared:

The Supreme Court held that the reading of the Bible and repeating the Lord's Prayer in religious exercises in the public schools under the circumstances in these cases is unconstitutional as violative [*sic*] of the First Amendment to the Constitution...The Court did not rule upon the question of voluntary recitation of the Lord's Prayer and Bible reading when it was done for educational purposes, either literary or historic when there is no state or school requirement thereon. (Patterson 1964, 110)

Patterson's interpretation of the rulings suggested that the High Court did not outlaw voluntary prayer or the Bible as an instructional tool. In order to maintain the state's close relationship to religion, Anderson used Patterson's comments to modify the text of a textbook supplement that was in the process of being adopted by the State Board of Education.

In an April 1964 letter written to Dr. R. Cathcart Smith, Chairman of the Instructional Committee for the State Department of Education and member of the State Board of Education, State Superintendent of Education Jesse Anderson expressed his concern over a section in a history textbook supplement published by Harcourt, Brace and World. Under the heading "Religion and the Schools," the paragraphs read:

In *Engel v. Vitale* [*sic*], decided in June 1962, the Court ruled against recitation in the public schools of New York State on a prayer that had been written by state school officials. A year later, in *Abington School District v. Schempp* [*sic*] and *Murray v. Baltimore School Board* [*sic*], the Supreme Court declared unconstitutional the recitation of the Lord's Prayer and Bible readings in public schools.

In all of these decisions the Court held that such religious practices violated the Constitutional provision in the First Amendment that prohibited “an establishment of religion.” (Anderson 1964, 1)

In his letter to Smith, Anderson went on to say that the authors correctly stated that the *Abington* and *Murray* decisions ruled that the mandatory requirement of Bible reading and the recitation of the Lord’s Prayer was unconstitutional, however, the authors’ inference that the decisions also applied to public schools that lacked a mandatory statute was incorrect. Upon noticing this flaw, Anderson stated: “My contention is that the Court has not ruled on the voluntary reading of the Bible or a voluntary prayer being offered in the classroom as being unconstitutional” (Anderson, 1964, 1). To remedy this situation, Anderson asked for the following sentence to be added to the textbook supplement: “The Court did not pass upon the question of voluntary recitation of the Lord’s Prayer and Bible reading in absence of State or school board requirements that such be done” (Anderson 1964, 2). Justifying his addition to the textbook supplement, Anderson said that since South Carolina lacked any law relating to Bible reading or classroom prayer he did not want students to “...feel that their teacher was violating the Constitution when she decided that she wanted to read the Bible or that she would like to pray before her class” (Anderson 1964, 2). As Anderson waited for a response from Smith, he penned another letter to W. Bruce Ezell, Vice Chairman of the State Board of Education to inform him of the needed changes to the textbook supplement. It was in this letter that Anderson noted the secrecy surrounding the textbook revisions. He wrote:

I am passing this on to you for your information, but we want to handle this in such a way that the papers will not get hold of it and if we do not get it corrected, they will not know anything about the correspondence or the consideration that we are giving to the matter. (Anderson 1964, 1)

In a letter written two days later, Smith responded positively to Anderson's proposed revisions and the matter was brought before the entire South Carolina School Board Committee during its April 17, 1964 meeting. In South Carolina, the State Board of Education holds the power to approve textbooks for use in the public schools. As a "state approval" state, the Board was able to ensure that textbooks properly reflected the religious tendencies in the state. It was during the April 1964 meeting that the Board took a definitive stand. It said that if Harcourt, Brace, and World did not replace the last sentence on page 893 with Anderson's proposed addition, the Board would withdraw its approval of the 1964 textbook supplement. This motion was passed by the Board (State Board of Education 1964, 2).

One month later, Anderson presented the changes made by Harcourt, Brace, and World to its 1964 textbook supplement. The revised paragraphs now read:

In *Engel V. Vitale* [*sic*], the Court in 1962 declared unconstitutional a regulation by a board of education that a prayer be recited in public schools in New York State. In 1963, in *Abington School District V. Schempp* [*sic*] and *Murray V. Baltimore School Board* [*sic*], the Court declared unconstitutional a state law and a board of education regulation requiring recitation of the Lord's Prayer and Bible reading in public schools.

In these decisions the Court held that laws or regulations requiring religious practices in public schools violated the constitutional provisions in the first amendment that prohibited 'an establishment of religion'. Some citizens praised the Court for its decision in these 'prayer cases', which they maintained had strengthened the principle of separation between church and state. Others, highly critical, branded the Court's action as 'anti-religious'. (State Board of Education 1964, 2)

Although the changes proposed by the textbook company were not what the Board had initially proposed, the State Board of Education voted to accept the modifications (State Board of Education 1964, 2). Informing Burnett Ball, Vice President of Harcourt, Brace and World, of the Board's approval, Anderson reflected on the textbook modification

process saying: “I regret that we have given so much trouble with regard to this Supplement, but I think it is good for all concerned and that it is good advertisement for your company and your book” (Anderson 1964, 1).

Beyond Becker

By June of 1964, the Congressional hearings had concluded without the addition of the Becker Amendment to the Constitution. As the year continued, South Carolinians resumed their normal routine, as evidenced by the decreasing number of letters to editors of local newspapers expressing the need for devotional prayer and Bible reading in the public schools. Furthermore, newspaper editors also discontinued publishing articles detailing the need for religious activities in the public school.

For over two years, South Carolinians had been engulfed in the fight to return non-denominational prayer, Bible reading, and the Lord’s Prayer to the public school, but by mid-1964 the effort all but ceased. This was due, in large part, to a shift in Washington D.C. politics. Following the assassination of President John F. Kennedy in November 1963, Lyndon B. Johnson, a Southerner by birth, assumed the executive office. With the war against Communism dominating foreign politics, Johnson decided to focus much of his attention to domestic initiatives in an effort to create what he believed would be the Great Society. Thus by 1964 Southerners, especially those in South Carolina, geared up for another debate over the growing role of the federal government in state matters.

One of Johnson’s first goals under the Great Society was to launch a “War on Poverty.” In order to accomplish this goal, Congress passed the Economic Opportunity Act of 1964. This Act created numerous community action programs in an effort to provide assistance to the poor. The most significant of these programs was Head Start,

which provided money to states in an effort to prepare poor children for school. Shortly after Head Start was initiated, Johnson introduced another bill to Congress that sought to provide more federal aid to the states (Urban and Wagoner 2009, 372-73).

The Elementary and Secondary Education Act (ESEA) of 1965 provided federal aid to individual states with high percentages of impoverished children. Under this provision, the majority of the funds would be funneled to the South, which had a large percentage of impoverished children, the majority of whom were African American; and larger urban areas of the North (Urban and Wagoner 2009, 373). The South, a region that had long been wary of the federal government, was cautious about accepting any federal funds. Furthermore, in light of the *Brown* decision and the passage of the Civil Rights Act of 1964, many in the South viewed ESEA as another way for the federal government to play a growing role in matters that had been traditionally under state authority. Similar to Southerners, many Catholics were also skeptical about federal funding as they feared that it would lead to unjust treatment of poor students in Catholic parochial schools. Therefore Johnson spent much of early 1965 garnering Congressional support for his proposal (Ravitch 1983, 148-49). Congress eventually rallied to support ESEA because of Johnson's persuasive skills (also known as the "Johnson Treatment") and the bill's way of providing money to the states, tying the funds to combating poverty. With Congressional approval, ESEA became the most far reaching piece of federal educational legislation to date.

By the end of 1965, South Carolinians had witnessed the federal government play a larger role in state educational matters. Nevertheless, despite the Supreme Court's ban on non-denominational prayer, devotional Bible reading, and recitation of the Lord's

Prayer, many citizens of the Palmetto State and their schools continued to ignore the High Court's edicts. These South Carolinians viewed the decisions through the prism of state rights, and thus concluded that since the state did not mandate these practices the rulings did not apply to South Carolina.

CHAPTER VII

SOUTH CAROLINA RESPONDS TO *ENGEL*, *ABINGTON*, AND *MURRAY*: CONCLUSIONS

“While America does not have a state religion, we have always been a religious state. Our future greatness depends...on continuing adherence to the ideals and values derived from our religious heritage.”

U.S. Senator Ernest “Fritz” Hollings (D-SC)

Since colonization, South Carolina’s public institutions have maintained a cozy relationship to religion. This bond has remained unshaken despite the twentieth century interventions of the United States Supreme Court in matters regarding the place of religion in public education. The expanding role of the federal courts began with *Cantwell v. State of Connecticut* (1940) in which the justices held that a New Jersey licensing law violated the First Amendment’s Free Exercise Clause. One month later, in *Minersville School Board v. Gobitis* (1940), the Court rendered a bewildering decision holding that a school board policy mandating the recitation of the Pledge of Allegiance and flag salute did not violate the Free Exercise Clause. Three years later the *Minersville* verdict was overturned in *West Virginia State Board of Education v. Barnette* (1943). Four years later in *Everson v. Board of Education* (1947), the High Court held that transportation reimbursements to parents who sent their children to Catholic parochial schools was not a violation of the First Amendment’s no-establishment clause. This case effectively incorporated the First Amendment’s Establishment Clause through the Due Process Clause of the Fourteenth Amendment, thereby making the First Amendment

applicable to the states. The non response of South Carolinians to the decision suggests a tacit approval of the verdict. One year later, the High Court once again heard a case pertaining to religion and the public schools. In *McCullum v. Board of Education* (1948) the justices held that released time religious instruction programs on school campus breached the no-establishment clause. In reaction to the decision, disgruntled citizens and religious leaders wrote scathing letters to the editors of their local newspapers and their Congressmen. Despite the Court's edict, the South Carolina State Board of Education continued to award high school credit to those students enrolled in Bible courses in the public schools. This decision by the Board shows that either it assumed the Bible courses did not include devotional exercises, or that since South Carolina lacked a law requiring released time religious programs, the verdict did not apply to the state. It would be another four years until the Court ruled again on the issue of religion in the public schools. This time, in *Zorach v. Clauson* (1954), the Supreme Court held that released time religious programs *off school campus* were a means of meeting the needs of an increasing pluralistic society and therefore constitutional. Once again, suggestive of their approval, South Carolinians were silent about the decision.

After a ten year hiatus, in 1962, the Supreme Court of the United States heard arguments in *Engel v. Vitale*. Writing for the majority, Justice Hugo Black ruled that the New York Regents prayer, a voluntary nondenominational prayer, composed by Protestant, Catholic, and Jewish religious leaders for use in the state's public schools, violated the Establishment Clause of the First Amendment. While many South Carolinians were still trying to understand the scope of *Engel*, the High Court issued its ruling in *Abington v. Schempp* (1963) and *Murray v. Curlett* (1963). In these two

decisions, the Court declared that devotional Bible reading and the recitation of the Lord's Prayer ran afoul of the no establishment clause. In a matter of two years, these three decisions seemed to strip religion from South Carolina's most cherished public institution, the public school.

South Carolinians reacted strongly both against and in favor of the Court's decisions. The Regents prayer case seemed to take many South Carolinians by surprise. After all, *Columbia's State* was the only major newspaper in the Palmetto State to cover the oral arguments in April 1962. The shock of many citizens was captured in articles that bordered on editorials, and letters to the editor in *Columbia's State*, *Charleston's News and Courier*, and the *Greenville News*. Furthermore, outrage was expressed in correspondence from local citizens to political figures and Christian denominational leaders. Here citizens decried the decision as advancing a Communist agenda and permitting the federal government to intrude into state matters. The indignation only intensified after the announcement of the decisions regarding practices in Pennsylvania and Maryland (*Abington v. Schempp* and *Murray v. Curlett*). By 1963, America was fully engulfed in the war against "godless" Communism as manifested in events like the Cuban Missile Crisis and the Vietnam War. Many feared that the removal of longstanding religious exercises from the public school would allow atheism to fester which, in turn, would promote Communism. Furthermore, much of the resentment towards the majority opinion stemmed from a growing fear that the federal government was intruding into state affairs. Many citizens saw the *Brown*, *Engel*, *Abington*, and *Murray* rulings as a way for the federal courts to trample upon state rights preserved under the Tenth Amendment. Though a majority of South Carolinians viewed the 1962

and 1963 decisions as a continuation of the federal government's loathsome assault on state rights, some citizens applauded the Court's adherence to Jefferson's "wall of separation" principle.

Despite the Palmetto State's fondness for religion, surprisingly some citizens and religious denominations agreed with the Supreme Court's rulings in *Engel*, *Abington*, and *Murray*. From college-age students to Jewish officials, those who supported the decisions often voiced their approval through letters to the editor of their local newspapers. In many of these notes, citizens understood that South Carolina, which had been dominated by Protestant Christianity since the seventeenth century, was now becoming a state of increasingly diverse religious beliefs. Recognizing that South Carolina was more pluralistic than ever before, these citizens claimed that the state had no authority to assume a religion or mandate religious practices in any public institution.

On the whole, however, the reactions of South Carolinians to *Engel*, *Abington*, and *Murray* mirrored the responses of the American population. Just as the greater part of South Carolina's residents disapproved of the majority verdict in the New York Regents case (6-1), results from a 1962 Gallup Poll indicated that 85 percent of Americans also disagreed with the *Engel* verdict (Dierenfield 2007, 138). The expressions of dissatisfaction continued into 1963 and the announcement of the *Abington* and *Murray* (8-1) decisions, all the way through to 1964. Results from a 1964 Gallup Poll showed that 77 percent of Americans approved of the Becker Amendment, an effort to amend the Constitution to permit voluntary prayer and Bible reading in the public schools (Dierenfield 2007, 182). Like citizens in other parts of the United States who agreed with the Court, a small, but vocal group of South Carolinians believed the Court rightly

supported the principle of separation. Conversely, the majority of Americans, including South Carolinians, viewed the decisions as not only an open endorsement of Communism, but also a continued encroachment by the federal courts which had yanked God out of the public schools thus rendering them secular or atheistic institutions.

Responses of South Carolinians following the *Engel*, *Abington*, and *Murray* verdicts show that the citizens of the Midlands and Low-Country were very vocal in expressing their disdain of the Court's edicts through newspaper articles and letters to the editor. Citizens in the Up-State, however, were much more muted in their response to the ban on non-denominational prayer. This timid response was replaced by a far sharper critique of the majority verdicts in *Abington* and *Murray*. It may be the case that the citizens of the Up-State did not sense the full magnitude of the *Engel* ruling until the High Court's 1963 decision. Furthermore, it could be speculated that the public schools in the Up-State relied more on Bible reading and the recitation of Lord's Prayer, as opposed to non-denominational prayer, and were therefore much more critical of the 1963 decisions.

Following the *Abington* and *Murray* decisions, dissension among Catholic and Baptist congregations emerged. Historically, the Catholic community had disapproved of the reading of the King James Version of the Bible in the public schools, as seen, for example, in the Edgerton (Wisconsin) Bible case of 1890. This disapproval softened, however, through much of the twentieth century as Catholics understood that some religious training in the public schools, albeit arguably Protestant in character, was better than no religious training, or in the words of some Catholic leaders, a "godless" public school. With the High Court's decisions in 1962 and 1963 effectively banning any form

of state-mandated devotional religious exercise in the public schools, Catholics no longer viewed the public schools as a vehicle to promote any religious values in children. Catholics therefore reaffirmed their support of parochial schools, as they had since the 1840s, as a means of providing children with a sound religious education. Furthermore, although Catholics used the 1962 and 1963 decisions to encourage enrollment in parochial schools, it should be noted that Catholic responses to *Abington* and *Murray* were more timid than responses to *Engel*. This hesitancy in 1963 may be due to the fact that by 1962 Catholics worldwide were engaged in meetings associated with the Second Vatican Council (1962-1965), an international movement to make the Church more “modern,” and were therefore too preoccupied to respond the High Court’s decisions (Noll 1992, 446-47).

Similar to Catholics, divisions within the Baptist community were also prominent following the 1963 decisions. Despite the South Carolina Baptist Convention’s approval of the *Engel*, *Abington*, and *Murray* decisions, numerous Baptist congregations submitted petitions to politicians asking for a remedy to nullify the Court’s edicts. This move presaged the 1970s split of many Southern Baptists away from the Convention’s strict separationist stance, promoting instead a more accommodationist platform, encouraging some religious activities in the public school. The division within the Baptist community continued as the South Carolina Baptist Convention in November of 1964 passed a resolution to approve of voluntary prayers in public schools (Asbury 1964, 1). Individual congregations criticism of the *Engel* ruling and support of the Becker Amendment may have prompted the Convention to support voluntary prayer in the public schools as a means of heading off a revision of the First Amendment. Despite these divisions and the

High Court's prohibition of government-sanctioned religious practices, most citizens who expressed their opinions regarding the Court's rulings supported the close relationship between religion and the public schools. And though religious practices in the public schools continued in the short run, the die was cast. Slowly, but surely, exercises such as those declared unconstitutional by the Court disappeared from most of South Carolina's public schools, regardless of the absence of state mandates.

These exercises were the last vestiges of what Charles Haynes has called the "sacred public school" that originated in the mid-nineteenth century. Early common schools were in effect "pan Protestant" institutions. Here the *McGuffey Reader* communicated a Protestant Christian worldview, and Bible reading without comment and other Protestant practices were commonplace. By the late 1800s, however, the winds of change began to buffet the "sacred public school." Growing religious, ethnic, and cultural pluralism, along with the diversification of the curriculum, began to erode the religious culture of the public school (Haynes and Thomas 2007, 5). By the mid-twentieth century most public schools were much less "sacred" than they had been in the 1800s.

Legal actions in the twentieth century began to chip away at long-standing Protestant practices. The first of these cases took place in 1925, when a teacher in Dayton, Tennessee, taught evolution to his high school biology class. This case illustrated a larger clash between religious fundamentalists, who wanted to use the public schools as a means to maintain religious orthodoxy, and the so-called modernists who desired, among other things, a strict separation of religion from the public schools. As the twentieth century progressed, Supreme Court rulings, such as *McCullum* (1948), further drove a wedge between the public schools and religious exercises. With the

announcement of the *Engel*, *Abington*, and *Murray* decisions, many Americans and most South Carolinians, concluded that the public school had been completely stripped of its “sacred” trappings. Some scholars even noted that following the Court’s decisions, references to religion were often removed from school textbooks (Vitz 1986, 1-4). Haynes and others began to speak of a “naked public school.” The Court, however, never intended that the study of religion be eliminated from public school or that students be prohibited from free exercise of religion. The Court seemed to be advocating, in Haynes’ words, a “civil public school,” where teaching about religion in an “objective” fashion and respecting all religious traditions would be defining characteristics (Haynes and Thomas 2007, 6). Despite the High Court’s endorsement of the “civil public school” many South Carolinians remain committed to the “sacred public school.” This dedication is evident in the ongoing prayers at athletic contests and school board meetings.

Limitations

It is important to note the limitations of this study. Although extensive effort was made to include the reactions of a wide variety of citizens, politicians, and denominational leaders to the *Engel*, *Abington*, and *Murray* decisions, it is possible that some voices may not have been “heard.” First, as this was a historical study, the responses were only those from literate South Carolinians. Likewise, in utilizing the three major newspapers as an avenue to gauge citizens’ opinions, reactions of those living in rural areas throughout the state may not have been adequately addressed. Furthermore, this research does not fully address the perspectives of the African American community. Although some research was conducted to determine the African American community’s response to the 1962 and 1963 decisions, the lack of resources available made this

difficult. Three African American community newspapers were operational in South Carolina when the rulings were issued. The *Charleston Inquirer*, *Columbia's Lighthouse*, and *Columbia's Palmetto Times* did not, however, feature any articles, editorials, or letters to the editor expressing support for or condemnation of the verdicts that banned government-sanctioned, non-sectarian prayer, devotional Bible reading, and the recitation of the Lord's Prayer from the public schools. Instead these newspapers mainly focused on social events occurring within Columbia or Charleston and larger political topics such as racial integration. Additionally, it is important to note the limitations in locating sources, particularly minutes from the State Board of Education's monthly meetings. Despite the cited material, many of the minutes from the monthly meetings held in the 1940s and 1960s are missing. There is no clear explanation as to why some of the minutes are absent from the files.

Recommendations for Future Research

To further this study, research should be conducted to explore the relationship between race and religion in South Carolina. Important questions to answer might include: Why was the African American community not as outspoken as the white community following the *Engel*, *Abington*, and *Murray* decisions? What role did the *Brown* decision play in the African American response to the decisions? What were the reactions among local African American congregations to the High Court's edicts? How did the NAACP and ACLU respond to the ban on state-sanctioned non-denominational prayer, devotional Bible reading, and the recitation of the Lord's Prayer?

A Final Thought

Reflecting upon Senator Hollings' quote at the beginning of the chapter, the state may not have a sanctioned religion anymore, but South Carolina has, and will likely continue to be a "religious state." The religious roots of the state, dating to the Colonial era, have survived a growing religious pluralism and the High Court's edicts. Religion still characterizes the state of South Carolina. From local Blue Laws to provisions in the state Constitution requiring elected officials to believe in a Supreme Being, South Carolina has maintained its strong ties to religion. This close bond is also reflected in the current practices found in the state's public schools. Despite the Supreme Court's decisions, many schools still have prayer before athletic events and board meetings, moments of silence, and even "religious revivals" as seen in New Heights Middle School, located in Chesterfield County. Many South Carolinians, it would seem, will continue to act as they have in the past, embracing practices associated with a "sacred public school" or as Hollings put it "a religious state."

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