

The Virginia Company to Chick-fil-A: Christian Business in America, 1600–2000

Joseph P. Slaughter*

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INTRODUCTION

The Supreme Court’s 2014 decision in *Burwell v. Hobby Lobby Stores, Inc.* is one of its most controversial in recent history.¹ *Burwell*’s narrow 5–4 ruling states that the Religious Freedom Restoration Act of 1993 applies to closely held, for-profit corporations seeking religious exemptions to the Affordable Care Act.² As a result, the *Burwell* decision thrust Hobby Lobby, the national craft chain established by the

* Visiting Assistant Professor of History and Chamberlain Project Fellow in the Allbritton Center for the Study of Public Life at Wesleyan University.

1. See *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

2. *Id.* at 719.

conservative evangelical Green family of Oklahoma City, Oklahoma, onto the national stage.³

Justice Ginsburg dissented, arguing that “history is not on the . . . side” of the Court’s failure to recognize a clear line between the religious missions of nonprofit versus for-profit entities.⁴ Justice Ginsburg reached back as far as Blackstone to argue that this distinction is historical, while citing recent cases, such as *Gilardi v. U.S. Department of Health & Human Services*, to argue that businesses exist to make profits, “rather than to perpetuate [the] religious value[s] [shared by a community of believers].”⁵ Justice Ginsburg’s claim reflects the conventional wisdom that considers for-profit corporations to be inherently secular entities, serving a secular purpose and existing within a secular marketplace.

Firms like Hobby Lobby and Chick-fil-A, however, reject the conventional wisdom Justice Ginsburg explained in *Burwell* and instead embrace an approach to business with deep historical roots: incorporating religious belief and practice into the fundamentals of their business model. Since the cultural privilege that these firms once benefited from is disappearing, their business practices increasingly stand out in the twenty-first century. In prior eras of American history, firms that benefited from such privilege seldom had to convince anyone that incorporating Christian principles into their business was an admirable thing, but today’s firms like Hobby Lobby and Chick-fil-A often resort to the courts in an effort to retain the right to incorporate their religious identity into their businesses as they see fit.

This Article argues that the proprietors of what I term “Christian Business Enterprises” (CBEs) would strenuously disagree with Justice Ginsburg and assert that their express mission is to earn a profit *while* propagating their religious values. As such, they operate businesses “infused with religion,” where Christian values are interwoven into the very fabric of the company and how the firm relates to its stakeholders, employees, customers, suppliers, and communities.⁶ For example, a study of 275 companies with fifteen or more employees found that 92% of self-described “Christian” companies conducted on-site religious activities,

3. Since 2014, the Greens have attracted additional controversy as the principal financial and conceptual engine behind the Washington, D.C., Museum of the Bible. For a discussion on Hobby Lobby, see CANDIDA R. MOSS & JOEL S. BADEN, *BIBLE NATION: THE UNITED STATES OF HOBBY LOBBY* (2017).

4. *Burwell*, 573 U.S. at 756 (Ginsburg, J., dissenting).

5. *Id.* (alteration in original) (quoting *Gilardi v. U.S. Dep’t of Health & Hum. Servs.*, 733 F.3d 1208, 1242 (D.C. Cir. 2013)).

6. Ronald J. Colombo, *Religious Liberty and the Business Corporation*, 17 J. INT’L BUS. & L. 25, 26–27 (2017). Colombo used the term “religious business corporation” when he presented an early draft of his article at a business conference at the University of Maryland, College Park, on November 6, 2012.

including the CEO “preaching,” group devotionals, personal evangelism, employee-delivered religious testimonies, and opening meetings with prayer or scripture reading.⁷ Seventy-three percent of these businesses “engaged in active proselytizing to their customers,” including prominently displaying Christian principles in their reception areas, adding biblical quotes to products or correspondence, playing Christian music on company property, praying with customers, giving Christian gifts (calendars or bumper stickers), and inviting customers to church.⁸ Forty-eight percent of these companies conducted similar activities with suppliers and 53% financially supported various Christian organizations in their community, including schools, colleges, and parachurch ministries.⁹

This Article demonstrates the rich heritage of religious for-profit businesses throughout American history by focusing on a series of Protestant CBEs that led to today’s CBE giants: Chick-fil-A and Hobby Lobby.¹⁰ This account does not presume to be a comprehensive history of Protestant businesses in America but instead offers a few historical signposts to illustrate the continuity of Christianity’s connection to for-profit enterprises in a variety of forms. As the Article transitions into the twentieth century, it does not discuss any of the thousands of small, local CBEs and neglects entire industries, such as Christian media. This Article fails to adequately address how CBEs have dealt with racial and gender issues, which have been vital to the CBE story; at times, this intersection has perpetuated gender and racial inequalities. No American should face discrimination within the marketplace; however, this Article does not address the ongoing debate over how to balance religious freedom with civil rights. However limited, this Article does demonstrate the close connection between capitalism and Christianity throughout U.S. history. Understanding this connection can help us better contextualize twenty-first century cultural debates over the nature and future of the American marketplace.

I. RELIGIOUS BUSINESS PRACTICES OF THE AMERICAN PAST

From the time Europeans began colonizing America, religious practices were critical for the operation of business. Puritan ministers encouraged others to seek both God and success in their businesses and

7. Nabil A. Ibrahim, Leslie W. Rue, Patricia P. McDougall & G. Robert Greene, *Characteristics and Practices of “Christian-Based” Companies*, 10 J. BUS. ETHICS 123, 125–26 (1991).

8. *Id.* at 128.

9. *Id.* at 129–30.

10. This Article regrettably neglects the rich legacies of Catholic, Jewish, Muslim, and Hindu businesses. Each of these religious enterprise traditions deserve their own dedicated articles.

many had faith that any harm to one's business was a consequence of an act of God—and any success was God's mercy. As a result, many prescribed to the idea that to be successful in business, proprietors must practice piety within that business. During the Early National Period, reformers used business to reshape and purify aspects of the market they found corrupt. While these efforts were controversial, some, such as the Sabbatarian movement that fought seven-day workweeks, left a lasting legacy. Revivals specifically targeting businessmen in the mid-nineteenth century led to the Christian businessman archetype, perhaps best represented in the person of John Wanamaker, the incredibly successful Philadelphia retailer. With the turn of the twentieth century, Christian businessmen played an important role in the emergence of fundamentalism, thanks to their friendship and alliance with ministers such as Dwight L. Moody and Billy Sunday.

A. Colonial Era: Blurring the Lines between Religion & Business

Historian Amanda Porterfield traces the origins of corporations back to the early days of Christianity, outlining how the theology of St. Paul runs from Roman Antiquity through the Middle Ages to the early corporate ventures in North America.¹¹ Porterfield's argument focuses on how religious belief shaped British settlers' approach to business, trade, and markets and demonstrates that these early business ventures themselves were explicit in their religious purpose.¹² The first corporations of North America—joint-stock ventures of settler colonialism such as the Virginia Company and the Massachusetts Bay Company—formally codified their religious identities in their respective charters.¹³ For example, the Virginia Company's charter boldly stated:

We, greatly commending, and graciously accepting of, their
Desires for the Furtherance of so noble a Work, which may, by

11. See AMANDA PORTERFIELD, CORPORATE SPIRIT: RELIGION AND THE RISE OF THE MODERN CORPORATION (2018).

12. *Id.*

13. See *The First Charter of Virginia; April 10, 1606*, THE AVALON PROJECT, https://avalon.law.yale.edu/17th_century/va01.asp#1 [<https://perma.cc/B8YU-XS4H>]; *The Charter of Massachusetts Bay: 1629*, THE AVALON PROJECT, https://avalon.law.yale.edu/17th_century/mass03.asp [<https://perma.cc/ZXR4-EZ47>]. Regulated corporations were another competing model with the joint-stock corporation. Joint-stock companies emerged in the seventeenth century as a mechanism whereby large groups of investors shared risk by combining their capital and allowing them to forge new trade routes and networks. Investors included merchants and non-merchants; some joint-stock companies became incredibly powerful in the eighteenth century, most notably the British East India Company. Joint-stock corporations were based on shared capital, while regulated companies were “guild-like bodies.” William A. Pettigrew & Tristan Stein, *The Public Rivalry Between Regulated and Joint Stock Corporations and the Development of Seventeenth-Century Corporate Constitutions*, 90 HIST. RSCH. 341, 341–42 (2017).

the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of Christian Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government: DO, by these our Letters Patents, graciously accept of, and agree to, their humble and well-intended Desires[.]¹⁴

The “propagating of Christian Religion” (or evangelism) was supposed to be a core mission of the Virginia Company.¹⁵ The Massachusetts Bay Company went further, declaring that conversion of native peoples was its “princip[le] End[.]”:

[W]hereby our said People, Inhabitants there, may be so[] religiously, peaceabl[y], and civilly governed, as their good Life and orderl[y] Convers[ion], ma[y] w[in] and incite the Natives of Country, to the Knowledg[e] and Obedience of the onl[y] true God and Sa[vior] of Mankind[], and the Christian Fa[i]th, which in our Royal[] Inten[tion], and the Adventurers free Profession, is the princip[le] End[] of this Planta[tion].¹⁶

In reality, conversion was low in priority for both companies, given the immediacy of survival in the early years of North American settlement. It was not until the formation of the New England Company, the oldest English Protestant missionary society, in 1649, that North American colonists began to focus on converting indigenous peoples.¹⁷ In fact, many colonists believed the future establishment of God’s earthly kingdom depended upon such endeavors.¹⁸

Porterfield’s argument, that church and commerce developed together in seventeenth-century New England, is hardly novel. Historian Perry Miller reinvigorated studies of New England Puritans, detailing the way in which they viewed their world through covenantal lens, where everything possessed divine meaning, including economic exchanges.¹⁹

14. *The First Charter of Virginia; April 10, 1606, supra* note 13.

15. *Id.*

16. *The Charter of Massachusetts Bay: 1629, supra* note 13.

17. See *History of the New England Company*, NEW ENG. CO., <http://www.newenglandcompany.org/htms/history.htm> [<https://perma.cc/ZB8Y-JFMC>].

18. See WILLIAM KELLAWAY, *THE NEW ENGLAND COMPANY 1649–1776: MISSIONARY SOCIETY TO THE AMERICAN INDIANS* (1961); see also JOHN ELIOT, THOMAS MAYHEW & RICHARD MATHER, *TEARS OF REPENTANCE: OR, A FURTHER NARRATIVE OF THE PROGRESS OF THE GOSPEL AMONGST THE INDIANS IN NEW-ENGLAND* (Peter Cole, Leaden Hall, 1653); NEW ENG. CO., *supra* note 17.

19. See PERRY MILLER, *THE NEW ENGLAND MIND: THE SEVENTEENTH CENTURY* (1939); see also PERRY MILLER, *THE NEW ENGLAND MIND: FROM COLONY TO PROVINCE* (1953); PERRY MILLER, *ERRAND INTO THE WILDERNESS* (1956).

Miller viewed the seeds of the Puritans' spiritual undoing as rooted in their material success, a view that Bernard Bailyn expanded upon by highlighting the conflict in the New England marketplace. His work, *The New England Merchants in the Seventeenth Century*, emphasizes a narrative of declension: greedy New England merchants undermined and co-opted the power of Congregational ministers, who largely opposed their marketplace ambitions.²⁰ Unlike Porterfield, who finds liberation for market exchange in Christian doctrine, Bailyn argued Puritan doctrine had a "restrictive effect" upon merchants because the marketplace "constantly exposed to sin" the soul of the merchant.²¹ Overseas trade and non-Puritan merchants further undermined the Puritans' religiosity.²² Consequently, Bailyn found little religion within the businesses of seventeenth-century New England. Instead, their practices were in direct conflict with the teachings of their ministers, watered-down colonial religious orthodoxy, and depressed church membership and affiliation.

Historian Mark Valeri provides a helpful corrective to Bailyn in his work, *Heavenly Merchandize*.²³ The book's title derives from Samuel Willard's 1868 sermon, which used marketplace language to impart spiritual truths.²⁴ He examines many of the same examples Bailyn cites—merchants such as Robert Keayne, John Hull, and Samuel Sewell—but Valeri's examination of the personal writings of these figures leads him to a much different conclusion about how they integrated religion with their business activities.²⁵ Valeri does not deny the conflict between seventeenth-century New England ministers and merchants; instead, he argues merchants' deep religious convictions, combined with imperial politics—namely economic and military conflict with Catholic France and Spain—led to the sanctification of the New England marketplace.²⁶ This is important to Valeri because, like Porterfield, he views such a symbiosis as essential to the economic development of the United States.²⁷

Puritan merchant and silversmith John Hull certainly saw God's hand everywhere, a perspective that meant his importing and exporting business was just one more place that God would turn up. Hull was born in

20. BERNARD BAILYN, *THE NEW ENGLAND MERCHANTS IN THE SEVENTEENTH CENTURY* (Harper & Row 1964) (1955).

21. *Id.* at 16, 20.

22. *Id.* at 75.

23. MARK VALERI, *HEAVENLY MERCHANDIZE: HOW RELIGION SHAPED COMMERCE IN PURITAN AMERICA* (2010).

24. *Id.* at 1.

25. *Id.* at 3–4, 9.

26. *Id.* at 126, 134.

27. *Id.* at 249.

Leicestershire in 1624, emigrated with his father to Boston at age ten,²⁸ and became a “successful but not fantastically wealthy” merchant.²⁹ Hull believed God began intervening in his life from an early age: he described in his diary how he narrowly avoided severe scalding, not once but twice, and how, when he was two years old, a group of pack horses knocked him over in the street but did not crush and kill him—thus attributing his protection to God’s merciful hand.³⁰ He further wrote, in 1656, that “it pleased the Lord to send” measles to his pregnant wife—attributing her recovery to “God’s restoring mercy.”³¹

By the 1660s, Hull was a partial owner in numerous vessels that traded throughout the Atlantic marketplace, carrying fish, tobacco, forest products, such as ship masts, and in at least two instances, slaves.³² Hull viewed his business matters in a divinely ordained light. For example, when he lost two ships worth of goods to Dutch warships, he acknowledged that his finances were all God’s anyhow, and he celebrated that God had made up his loss: “To him be all praise!”³³ When he suffered another devastating shipping loss in 1658, Hull wrote that he viewed it as an opportunity for God to “wean my heart” from material things “and fix it more upon himself!”³⁴ The following year, he discovered that God had “made up [his] lost goods . . . by his own secret blessing.”³⁵ For Hull, God was intimately involved in every aspect of one’s life, including one’s marketplace activities. It was up to God to repay one’s losses and under no circumstances was one to raise prices to compensate for losses. Like many of his fellow Puritans, Hull believed that God rewarded those who earnestly sought righteousness with material success. This interpretation of God’s material providence is an important legacy of Puritan businessmen because it forms the foundation of what would become known as the “prosperity gospel,” the notion that God rewards the faithful with earthly wealth.³⁶

28. John Hull, *The Diaries of John Hull: Mint-Master and Treasurer of the Colony of Massachusetts Bay*, in 3 *TRANSACTIONS AND COLLECTIONS OF THE AMERICAN ANTIQUARIAN SOCIETY* 109, 142 (Cambridge, Bolles & Houghton 1850); Hermann F. Clarke, *John Hull—Colonial Merchant 1624–1683*, 46 *AM. ANTIQUARIAN SOC’Y* 197, 197–98 (1936).

29. MARK VALERI, *HEAVENLY MERCHANDIZE: HOW RELIGION SHAPED COMMERCE IN PURITAN AMERICA* 79 (2010).

30. Hull, *supra* note 28, at 141–42, 146–47.

31. *Id.*

32. Clarke, *supra* note 28, at 204–08, 214.

33. Hull, *supra* note 28, at 146.

34. *Id.* at 148.

35. *Id.* at 148–49.

36. For the twentieth-century prosperity gospel, see KATE BOWLER, *BLESSED: A HISTORY OF THE AMERICAN PROSPERITY GOSPEL* (2013).

Merchants, such as John Hull, were operating CBEs. Like Hull, they were earnest in their faith, thought deeply about the implications of their religious beliefs, and wrestled with the best way to incorporate those beliefs into their marketplace activities. They did not live bifurcated lives but sought to make Sunday's worship relevant to Monday's marketplace activity. Certainly, this could seem contradictory to some, as they "conjoined hard-nosed business with evangelical piety."³⁷ In this, they were not so different from twenty-first-century businesspersons seeking to weave their religious identity into their businesses, whether through employee relations, customer service, or office culture. Far from castigating their business success, Puritan ministers, such as Cotton Mather, encouraged New England's merchants and shopkeepers to seek both God and success in the marketplace while counseling the need to practice piety in one's business activities.³⁸

Mather's sermon, *Durable Riches*, emphasizes God's sovereignty in one's successes and losses—it was the individual's duty to ask, "Why?"³⁹ Mather preached that poverty and business failures were due to one's own unthankful attitude toward God and withholding from God that which was his, specifically not engaging in charity to one's church and community.⁴⁰ Mather blessed the pursuit of profits, so long as they did not turn into

37. VALERI, *supra* note 23, at 238. Scholars of American religion define evangelicalism in many ways. Many subscribe to David Bebbington's "Quadrilateral" marks of evangelical religion: conversionism, activism, biblicism, and crucicentrism. *See, e.g.*, D. W. BEBBINGTON, *EVANGELICALISM IN MODERN BRITAIN: A HISTORY FROM THE 1730S TO THE 1980S* 2–3 (Taylor & Francis 2005) (1989). For the Bebbington perspective, see David W. Bebbington, *Evangelicalism in Its Settings: The British and American Movements Since 1940*, in *EVANGELICALISM: COMPARATIVE STUDIES OF POPULAR PROTESTANTISM IN NORTH AMERICA, THE BRITISH ISLES, AND BEYOND, 1700–1990*, at 365 (Mark A. Noll, David W. Bebbington & George A. Rawlyk eds., 1994); *see also* THOMAS S. KIDD, *WHO IS AN EVANGELICAL?: THE HISTORY OF A MOVEMENT IN CRISIS* 4 (2019) (calling for a modified Bebbington definition of evangelicalism). Scholars such as Kristin Du Mez & Todd Brenneman find such belief-based definitions problematic. *See* KRISTIN KOBES DU MEZ, *JESUS & JOHN WAYNE: HOW WHITE EVANGELICALS CORRUPTED A FAITH AND FRACTURED A NATION* 5–11 (2020); TODD M. BRENNEMAN, *HOMESPUN GOSPEL: THE TRIUMPH OF SENTIMENTALITY IN CONTEMPORARY AMERICAN EVANGELICALISM* 16–17 (2014). Du Mez cites the practice of defining evangelicals by their cultural products and media. *See, e.g.*, HEATHER HENDERSHOT, *SHAKING THE WORLD FOR JESUS: MEDIA AND CONSERVATIVE EVANGELICAL CULTURE* (2004); *see also* ROBERT WUTHNOW, *INVENTING AMERICAN RELIGION: POLLS, SURVEYS, AND THE TENUOUS QUEST FOR A NATION'S FAITH* (2015) (defining evangelicals according to the categories of pollsters and politics). *See generally* MARK A. NOLL, DAVID W. BEBBINGTON & GEORGE M. MARSDEN, *EVANGELICALS: WHO THEY HAVE BEEN, ARE NOW, AND COULD BE* 123–213 (2019). This Article uses the term "evangelical" cautiously, reserving it for individuals of the nineteenth and twentieth century who meet Bebbington's qualifications and operate within Du Mez's cultural and media world.

38. *See* Cotton Mather, *The True Cause of Loosing*, in *DURABLE RICHES: TWO BRIEF DISCOURSES, OCCASIONED BY THE IMPOVERISHING BLAST OF HEAVEN, WHICH THE UNDERTAKINGS OF MEN, BOTH BY SEA AND LAND, HAVE MET WITHAL* (Boston, John Allen 1695), *microformed on* Early English Books Online (ProQuest).

39. *Id.* at 13; VALERI, *supra* note 23, at 112–13.

40. VALERI, *supra* note 23, at 112–13.

idolatry.⁴¹ But, Mather was also concerned with how artisans, merchants, and shopkeepers were making their profits. He branded a “Fool” one who employed dishonesty, fraud, or intimidation in pursuit of material success: “Yea, If any Thing have been Gotten by any Trade, offensive unto God; such a Trade, suppose, as that wherein by *Strong Drink* Sold unto our *Indians* . . . ’tis well if it been’t *Lost*”⁴² Conversely, Mather counseled his congregants that material success was fine as long as one gave generously; such individuals “they’l generously give away to *Pious Uses*.”⁴³ Charity was not only one’s Christian “duty” but “[t]he True Way of Thriving” and not only included giving to one’s church and community but also honest lending to responsible individuals, paying one’s taxes in full, and generosity in forgiving debts.⁴⁴ Ultimately, the ideal merchants incorporated Christian morality into their business ventures and then used their God-given material success to improve their community. Such a merchant was exemplified by Robert Keayne.

Robert Keayne is best known for his 1639 conviction by the Massachusetts General Court for overcharging his customers for bags of nails.⁴⁵ But, as his meticulous sermon notes attest, he was a fantastically pious member of Boston’s Puritan community. A successful importer, whose expansive business throughout the Atlantic world of the 1630s and 1640s earned him a small fortune, Keayne gave £300 for the construction of a “town house” or public exchange (market building) and water conduit in Boston in 1653.⁴⁶ As Valeri notes, the Boston Town House’s placement—near the wharves facing the First Church meetinghouse—reflected the Puritan belief that community and religion should govern business exchanges.⁴⁷ The question mid-seventeenth-century Puritans wrestled with was whether merchants’ material success should foster “national prosperity and happiness” or be shared with “one’s immediate neighbor and God.”⁴⁸ Keayne went to his grave convinced he contributed to the latter.⁴⁹

With its blurred boundaries between religion and business, New England was not the only place CBEs existed in colonial North America: Moravians had demonstrable success in the mid-Atlantic region. Though not as commonly known as Quakers, Moravians constructed a novel form

41. Mather, *supra* note 38, at 11–15.

42. *Id.* at 16–18.

43. *Id.* at 24.

44. *Id.* at 2–10.

45. Bernard Bailyn, *The Apologia of Robert Keayne*, 7 WM. & MARY Q. 568, 572–77 (1950).

46. *Id.* at 580.

47. VALERI, *supra* note 23, at 12.

48. *Id.* at 13.

49. See Bailyn, *supra* note 45, at 577–85.

of the CBE in Bethlehem, Pennsylvania: *Unitas Fratrum*.⁵⁰ Historian Katherine Carté Engel describes the Moravian vision of “Oeconomy” as a moral community, working industriously to turn a profit that could then be reinvested into missionary endeavors, chiefly among North America’s indigenous peoples.⁵¹ Engel describes this as a direct result of eighteenth-century revivalist Protestantism and the expanding transatlantic economy.⁵² The Moravians are particularly compelling because they were pious, evangelistic, and vigorous entrepreneurs, trading throughout the Atlantic community.⁵³ Moravians did not accept a duality between their sacred life and their economic pursuits but instead worked to keep their business activity from degenerating into “worldliness, laziness, greed, thievery, and dishonesty.”⁵⁴

Founded as a communitarian community at the height of the Great Awakening, in 1741, Bethlehem, Pennsylvania’s sole purpose was to efficiently produce profits that could sustain missionary activity to the neighboring indigenous peoples.⁵⁵ Along with the missionary focus, all Moravian labor was invested with spiritual significance, including the artisanal work that was the core of Bethlehem’s industry.⁵⁶ Engel describes a community value not dissimilar from the Calvinist theology of vocation that Max Weber argued was central to capitalism’s emergence and success in New England.⁵⁷

While colonial-era businesses may look a bit different from those of the twenty-first century, such as Chick-fil-A or Hobby Lobby, the period’s blurry boundaries between religion and commerce mean that it is easy to find examples of those possessing a religious ethos or explicitly religious purpose. Joint-stock ventures claimed religious objectives, Puritan merchants actively measured their market activities against their Bibles, and Moravians diligently built businesses that in turn funded missionary ventures. Certainly, skeptics might question the degree to which joint-stock companies lived out their religious mission, whether the Moravians were just an early example of a nonprofit organization or to what degree New England merchants integrated religion into their business activities. However, the reforming businesses of the Early National Period, such as

50. CRAIG D. ATWOOD, FRANK S. MEAD & SAMUEL S. HILL, HANDBOOK OF DENOMINATIONS IN THE UNITED STATES 158–59 (13th ed. 2010).

51. See KATHERINE CARTÉ ENGEL, RELIGION AND PROFIT: MORAVIANS IN EARLY AMERICA 39 (2009).

52. *Id.* at 2–4.

53. *Id.*

54. *Id.* at 4.

55. *Id.* at 4, 14.

56. *Id.* at 14, 37, 39, 98.

57. See MAX WEBER, THE PROTESTANT ETHIC AND THE “SPIRIT” OF CAPITALISM AND OTHER WRITINGS 12–14 (Peter Baehr & Gordon C. Wells eds. & trans., Penguin Books 2002) (1905).

those championing temperance or Sabbatarianism (the six-day workweek), projected no such ambiguity. Simultaneously, the Moravian form of Christian communalism diversified and expanded throughout sixteen different states and territories before 1860, many functioning as CBEs.⁵⁸

B. Early National Period: Purifying & Reforming the Market

In 1805, several hundred German immigrants made their way to western Pennsylvania and established a communal society known as the Harmony Society.⁵⁹ These immigrants were Pietists—offshoots of the Lutheran church who, at best, believed their religion had grown stale; at worst, grown corrupt and ultimately needed an infusion of earnest religiosity.⁶⁰ Their roots grew out of seventeenth-century religious revivals led by Philipp Jakob Spener, who called for a grassroots reformation of the Lutheran Church and transformation of individuals' hearts through sanctification—meaning becoming more like Christ.⁶¹ Some Pietists, such as the Harmonists, believed they needed to separate themselves from their old institutions to properly cleanse themselves of their corruptions and prepare for the coming millennial reign of Christ on Earth.

Upon arrival in North America, George Rapp, the Harmonists' leader, organized the community into a hybrid communal organization and textile manufacturing company. Private property was abolished at the Society's eponymous site in Butler County, Pennsylvania, with families living singly or several to a home and working in agriculture and artisanal crafts. Wool, cotton, and silk products were sold under the auspices of Rapp & Associates, and Rapp's adopted son Frederick functioned as the chief agent for the Society's business enterprises. Its communalism derived from religious belief, chiefly the Harmonists' interpretations of Acts 2:44–45, “And all that believed were together, and had all things common; And sold their possessions and goods, and parted them to all *men*, as every man had need[,]” and Acts 4:32–35:

58. See JAMES A. HENRETTA, DAVID BRODY, LYNN DUMENIL & SUSAN WARE, *AMERICA'S HISTORY, VOLUME 1: TO 1877*, at 346 (5th ed. 2003).

59. Unless otherwise noted, the following account of the Harmony Society comes from Joseph P. Slaughter, *Harmony in Business: Christian Communal Capitalism in the Early Republic*, 21 *ENTER. & SOC'Y* 716, 716 (2020).

60. *Id.* at 722.

61. For an introduction to Pietism, see DALE W. BROWN, *UNDERSTANDING PIETISM* 9–30 (1978). Like Alice T. Ott, I am using a “narrow” definition of Pietism, referring to a specific renewal movement in German Lutheranism. See, e.g., ALICE T. OTT, *THE SUNWOMAN IN THE WILDERNESS: THE RELIGIOUS BELIEFS AND PRACTICES OF GEORGE RAPP'S HARMONY SOCIETY* 11–14 (2014); see also F. ERNEST STOEFFLER, *THE RISE OF EVANGELICAL PIETISM* 202, 230 (1965).

And the multitude of them that believed were of one heart and of one soul: neither said any of *them* that ought of the things which he possessed was his own; but they had all things common. And with great power gave the apostles witness of the resurrection of the Lord Jesus: and great grace was upon them all. Neither was there any among them that lacked: for as many as were possessors of lands or houses sold them, and brought the prices of the things that were sold, [a]nd laid *them* down at the apostles' feet: and distribution was made unto every man according as he had need.⁶²

Labor was increasingly in short supply for Harmony because membership was highly restricted due to religious considerations. Since the Society believed it was a remnant of the “true” church that was delivered to North America in the manner of the “Sunwoman”⁶³ of Revelation 12:1–6, which depicts God rescuing a pregnant woman imperiled by a raging dragon, it was always careful about whom was admitted to its community.⁶⁴ Harmonists not only believed that God was saving them because of their piety but also because they set up a “divine economy” for the new millennium.⁶⁵ It was vital that the Society establish and maintain a robust economic posture so that it could persevere through any economic crisis and then serve as a foundational model for economic exchange and production in the new age to come. Except for communal property, the Harmony model embraced the tools of the expanding capitalist system of the Early Republic United States, including stocks, bonds, leases, mortgages, patents, trademarks, licenses, litigation, and contracts.

The Harmonists, lasting the entirety of the nineteenth century, were the most materially successful of hundreds of similar groups and provided a template for Hutterites, Amana, Mormons, Shakers, and Zoarites—to name a few of the communally capitalistic communities that formed in the late eighteenth century and first six decades of the nineteenth century. Far from simple, utopian communities, these groups were entrepreneurial, industrial, and enmeshed in the early North American marketplace. They also based their business enterprises upon their religious beliefs, which shaped their interactions with customers, suppliers, workers, and capital. Seeking to purify the American marketplace (and culture), these CBEs

62. *Acts* 2:44–45 & 4:32–35 (King James).

63. OTT, *supra* note 61.

64. *Revelation* 12:1–6 (King James).

65. See generally Joseph P. Slaughter, *Harmony in Business: Christian Communal Capitalism in the Early Republic*, 21 ENT. & SOC'Y 716 (2020).

offered a rebuttal to the reckless, speculative capitalism characterized by some Early National Period businessmen.⁶⁶

Communal capitalists, such as the Harmonists, represent but one critique of the early nineteenth century U.S. marketplace. Beginning in the 1820s, businesses formed for the express purpose of reforming the market, most prominently those focused on Sabbatarianism. Social reform figures heavily in historical narratives of the Early National Period United States; however, historians usually focus on revivals and voluntary associations in telling this story. These were certainly significant avenues of reform in the early nineteenth century, but the narrative misses the ways religious for-profit businesses contributed to reform efforts. One of the few works highlighting such businesses is Paul Johnson's classic, *A Shopkeeper's Millennium*, which argues businessmen used the famed revivalist Charles Finney's Rochester meetings to train an unruly workforce for the needs of the emerging American capitalist marketplace. Johnson's story is compelling, but its primary shortcoming is its Marxist treatment of religion. For Johnson and other Marxist historians, since religion is a façade for materialist factors, they fail to take religion seriously and miss a novel development hiding in plain sight: reforming CBEs established in the 1820s and 1830s, which shaped the marketplace in ways that are still felt in the twenty-first century.⁶⁷

One such example was the Pioneer Stagecoach Line (Pioneer Line) of upstate New York, established as an alternative transportation network

66. For an example of the reckless, speculative businessman, see JANE KAMENSKY, *THE EXCHANGE ARTIST: A TALE OF HIGH-FLYING SPECULATION AND AMERICA'S FIRST BANKING COLLAPSE* (2008).

67. Most of the works on the Early National Period marketplace can be divided into what I term the "Social Control" or "Democratization" schools. The Social Control School includes works such as Charles I. Foster, *The Urban Missionary Movement, 1814–1837*, 75 *PA. MAG. HIST. & BIOGRAPHY* 47, 47–65 (1951); CHARLES C. COLE, JR., *THE SOCIAL IDEAS OF THE NORTHERN EVANGELISTS, 1826–1860*, at 96 (1954); CLIFFORD S. GRIFFIN, *THEIR BROTHERS' KEEPERS: MORAL STEWARDSHIP IN THE UNITED STATES, 1800–1865* (1960); PAUL E. JOHNSON, *A SHOPKEEPER'S MILLENNIUM: SOCIETY AND REVIVALS IN ROCHESTER, NEW YORK, 1815–1837* (17th prt. 1991) (1978); SEAN WILENTZ, *CHANTS DEMOCRATIC: NEW YORK CITY & THE RISE OF THE AMERICAN WORKING CLASS, 1788–1850* (1984); CHRISTINE STANSELL, *CITY OF WOMEN: SEX AND CLASS IN NEW YORK, 1789–1860* (1987); CHARLES SELLERS, *THE MARKET REVOLUTION: JACKSONIAN AMERICA, 1815–1846* (1991). The Democratization School includes works such as TERRY D. BILHARTZ, *URBAN RELIGION AND THE SECOND GREAT AWAKENING: CHURCH AND SOCIETY IN EARLY NATIONAL BALTIMORE* (1986); NATHAN O. HATCH, *THE DEMOCRATIZATION OF AMERICAN CHRISTIANITY* (1989); CURTIS JOHNSON, *ISLANDS OF HOLINESS: RURAL RELIGION IN UPSTATE NEW YORK, 1790–1860* (1989); PETER J. WOSH, *SPREADING THE WORD: THE BIBLE BUSINESS IN NINETEENTH-CENTURY AMERICA* (1994); JAMA LAZEROW, *RELIGION AND THE WORKING CLASS IN ANTEBELLUM AMERICA* (1995); WILLIAM R. SUTTON, *JOURNEYMEN FOR JESUS: EVANGELICAL ARTISANS CONFRONT CAPITALISM IN JACKSONIAN BALTIMORE* (1998); MARIANNE PERCIACCANTE, *CALLING DOWN FIRE: CHARLES GRANDISON FINNEY AND REVIVALISM IN JEFFERSON COUNTY, NEW YORK, 1800–1840* (2012); DAVID PAUL NORD, *FAITH IN READING: RELIGIOUS PUBLISHING AND THE BIRTH OF MASS MEDIA IN AMERICA* (2007).

to the existing “Old Line” connecting Albany and Buffalo. The founders of the Pioneer Line identified a “problem” with the market-businesses, which were increasingly open for business seven days a week, due in large part to the policies of the federal mail service and the opening of the Erie Canal in 1825. Market-minded merchants out west, in cities such as Rochester, New York, feared losing workdays to their competition in the market centers of New York City, Boston, and Philadelphia. Pioneer Line’s proprietors promoted “dry” lodging and dining, which entailed stopping only at such establishments (which had recently been established themselves, also as reforming CBEs). The Pioneer Line wanted its labor force to reflect its values, and it attempted to accomplish this goal by hiring drivers who did not swear or drink alcohol. Pioneer’s managers found this difficult because there were only so many men with the skill to operate a stagecoach in the late 1820s.⁶⁸

Although the Pioneer Line was initially successful, quickly capturing 40% of the market, it ran out of money and folded after only four years.⁶⁹ Its flameout has caused most historians to overlook its position at the forefront of a larger movement, which over the span of the nineteenth century, had succeeded in halting business expansion into Sunday.⁷⁰ The Pioneer Line was but one of many transportation lines, including canal boats and steam ships, that advertised their Sunday closures, which helped provide an alternative marketplace for concerned consumers.⁷¹ Eventually, this alternate economy, combined with proliferating local laws prohibiting businesses from operating on Sundays, reversed the trajectory towards a seven-day workweek.⁷² Despite the increased number of retail and restaurant businesses operating on Sundays, since the 1960s, it remains normative (and aspirational) for most non-retail and non-dining sector businesses to stay closed on Sunday.⁷³

Another example that shows the lasting effect of reforming CBEs from this period is Lewis Tappan’s Mercantile Agency, which created the

68. CAYUGA FREE PRESS, March 19, 1828; *Arrangements for the “Pioneer” Stages*, W. RECORDER (Apr. 1, 1828), *microformed on* Libr. of Cong. No. 1260-1262 AP (Xerox Univ. Microfilms); *Sabbath Convention*, AUBURN FREE PRESS (Feb. 14, 1828).

69. Cayuga Bridge Company Ledger, *in* Buffalo and Erie County Historical Society Collection 3–43 (Buffalo Hist. Museum 2015).

70. See RICHARD R. JOHN, SPREADING THE NEWS: THE AMERICAN POSTAL SYSTEM FROM FRANKLIN TO MORSE 180–85 (2d prtg. 1998) (1995) [hereinafter SPREADING THE NEWS]. Richard John is the main exception to historians who neglect Sabbatarianism’s significance.

71. See Richard R. John, *Taking Sabbatarianism Seriously: The Postal System, the Sabbath, and the Transformation of American Political Culture*, 10 J. EARLY REPUBLIC 517, 536–49 (1990) [hereinafter *Taking Sabbatarianism Seriously*].

72. See SPREADING THE NEWS, *supra* note 70; *Taking Sabbatarianism Seriously*, *supra* note 71.

73. For another article that takes Sabbatarianism seriously, see James R. Rohrer, *Sunday Mails and the Church-State Theme in Jacksonian America*, 7 J. EARLY REPUBLIC 53 (1987).

modern credit rating industry.⁷⁴ Founded by an ardent supporter of urban revivalism and the New York City Free Church Movement of the 1830s, Tappan's Mercantile Agency became R.G. Dun & Company and then Dun & Bradstreet Corporation, based out of New Jersey, which is still listed on the New York Stock Exchange.⁷⁵ Tappan was a moralist, and he sought to extend his Protestant morality into the marketplace through credit monitoring and reporting. As Bertram Wyatt-Brown posited in his biography of Tappan, "[h]e seemed to wear his religion inside out."⁷⁶ Tappan's evangelistic Calvinist (and, for a period, Unitarian) theology guided his approach to social causes, including abolition.⁷⁷ Similarly, guided by his Protestant moral sensibilities, he sought to reform the marketplace by bolstering the market's moral actors and exposing those of lesser character. Tappan took his cue from the Apostle Paul: "Owe no man any thing, but to love one another,"⁷⁸ but if one was to require the extension of credit, as the marketplace increasingly dictated, it was better to know the reliability and morality of the prospective individual or firm. His belief was that if his credit bureau could turn enough of a profit so that it could help fund his many missionary and abolitionist associations, then so much for the better.⁷⁹

As the U.S. marketplace expanded, the exchange between individuals who had little to no prior mutual history to draw upon increased.⁸⁰ How could one know that a prospective customer, supplier, or client was trustworthy? This was easy to answer in the world of small villages and towns with local and regional trade networks; however, when a business in Rochester was going to contract with a firm in New York City, the old systems of moral accountability no longer applied.⁸¹ Tappan's company sought to address this problem by using the observations of unpaid local agents, who prepared reports on American businesses up and

74. See Robert N. Steck, *Doing Well While Doing Good: A Human-Rights Crusader Founded the Nation's First Credit Agency*, 39 D & B REPS., May–June 1991, at 17.

75. KYLE B. ROBERTS, *EVANGELICAL GOTHAM: RELIGION AND THE MAKING OF NEW YORK CITY, 1783–1860*, at 145–67 (2016).

76. BERTRAM WYATT-BROWN, *LEWIS TAPPAN AND THE EVANGELICAL WAR AGAINST SLAVERY* 261 (1969).

77. *Id.* at 1–16, 177. Tappan was one of the few in the antebellum period who advocated for mixed race marriages as a potential way to reform America's concept of race. *Id.*; see also ROBERTS, *supra* note 75, at 145–78 (counting Tappan as an evangelical).

78. *Romans* 13:8 (King James).

79. See WYATT-BROWN, *supra* note 76, at 1–16, 176, 243; Steck, *supra* note 74; see also Bertram Wyatt-Brown, *Arthur Tappan*, in 21 *AMERICAN NATIONAL BIOGRAPHY* 311–12 (John A. Garraty & Mark C. Carnes eds., 1999).

80. JOSH LAUER, *CREDITWORTHY: A HISTORY OF CONSUMER SURVEILLANCE AND FINANCIAL IDENTITY IN AMERICA* 27 (2017).

81. See *id.* at 30–31.

down the Atlantic coast and far out into the western trade networks.⁸² Within five years, Tappan had nearly 700 agents filing reports, a number that grew to more than 10,000 by the 1870s.⁸³

The reports are fascinating, as anyone with time on their hands will discover when perusing the records of R.G. Dun at Harvard Business School's Baker Library. For example, Dun's agents described the leaders of Rapp & Associates to be "respected men," specifically describing one of its trustees, R. L. Baker, as "one of the best businessmen West of the Mountains."⁸⁴ Dun's agents also estimated the financial standing of individuals and businesses; for example, they assigned the Harmony Society a net worth of \$10 million in 1866.⁸⁵ Although these reports may seem somewhat gossipy to twenty-first century researchers, Tappan's experience with bankruptcy in the aftermath of the Panic of 1837 illuminated the need to reduce risk-taking in the new anonymous marketplace.⁸⁶ His answer was the Mercantile Agency, which launched in 1841

for the purpose of procuring by resident and special agents, information respecting the standing, responsibility, &c., of country merchants It is not a system of espionage, but the same as merchants usually employ—only on an extended plan—to ascertain whether persons applying for credit are worthy of the same and to what extent.⁸⁷

Reforming businesses, such as the Pioneer and Mercantile Agency, were not only religious for-profit businesses but were also created by Christian businessmen to address and correct the moral failings they identified in the Early National Period economy. Because the whole point of such entities was to reshape human activity, ventures like the Pioneer Line proved controversial. Such integration of faith into one's business activity was far from universal, and in the years leading up to the Civil War, many in Victorian culture identified business with corrupting

82. *See id.* at 29–77. *See generally* JAMES D. NORRIS, R.G. DUN & CO., 1841–1900: THE DEVELOPMENT OF CREDIT-REPORTING IN THE NINETEENTH CENTURY (1978); SCOTT A. SANDAGE, BORN LOSERS: A HISTORY OF FAILURE IN AMERICA 99–188 (2005); EDWARD J. BALLEISEN, NAVIGATING FAILURE: BANKRUPTCY AND COMMERCIAL SOCIETY IN ANTEBELLUM AMERICA 146–51 (2001); WYATT-BROWN, *supra* note 76, at 226–41.

83. LAUER, *supra* note 80, at 32.

84. VOLUME: PENNSYLVANIA 17, BEAVER COUNTY, 1845–1890, at 159, *in* R.G. Dun & Co. Credit Report Volumes, *microformed on* Baker Libr. Special Collections No. Mss: 791 1840–1895 D987 (Harvard Bus. Sch.).

85. *Id.*

86. LAUER, *supra* note 80, at 29.

87. *Id.*

tendencies. The so-called “businessman revivals” of the late 1850s sought to address this spiritual deficiency.

C. Mid-Nineteenth Century: The Businessman Revivals

Jeremiah Lanphier, a forty-eight-year-old businessman who had undergone a conversion fifteen years prior, was failing.⁸⁸ Hired by his church to evangelize immigrants living in the surrounding neighborhood of New York City’s Fulton Street Dutch Reformed Church, Lanphier found the soil to be quite rocky.⁸⁹ However, when he began casting his seeds toward downtown businesses, his initial group of six men on September 23, 1857, soon grew to forty.⁹⁰ They decided to meet weekly and before long were filling up the entire church, spilling into nearby John Street Methodist Church, the Burton Theater on Chambers Street, and multiple other Congregational and Presbyterian churches uptown.⁹¹ These gatherings were structured like business meetings with a standard set of instructions detailed at the start of each session, which began precisely at noon and ended promptly at 1:00 PM.⁹² The meetings opened with no more than ten to twelve minutes of a reading or singing of hymns; a general prayer; and a scripture reading before transitioning to prayer requests, which were required to be written down.⁹³ By limiting prayers to five minutes, the meeting structure allowed participants to come and go as their schedule allowed and required that they avoid controversial topics in their requests (such as slavery).⁹⁴ At its height, twenty separate prayer meetings met at noon in New York City, with one hundred more taking place in the early morning and evening hours.⁹⁵

By March of 1858, the prayer meeting concept spread to Philadelphia, Washington, D.C., Cleveland, Chicago, and St. Louis.⁹⁶ These urban revivals produced an estimated one million converts in the U.S., spawning groups that encompassed women and children.⁹⁷ The

88. KATHRYN TERESA LONG, *THE REVIVAL OF 1857–58: INTERPRETING AN AMERICAN RELIGIOUS AWAKENING* 13 (1998).

89. *Id.*

90. *Id.*

91. Ian Randall, *Lay People in Revival: A Case Study of the ‘1859’ Revival*, 26 *TRANSFORMATION* 217, 218 (2009).

92. *See* LONG, *supra* note 88.

93. Randall, *supra* note 91, at 219.

94. *See* LONG, *supra* note 88, at 103.

95. *Id.* at 101; *see also* Randall, *supra* note 91, at 217–31; SAMUEL IRENÆUS PRIME, *THE POWER OF PRAYER: ILLUSTRATED IN THE WONDERFUL DISPLAYS OF DIVINE GRACE AT THE FULTON STREET AND OTHER MEETINGS IN NEW YORK AND ELSEWHERE, IN 1857 AND 1858 passim* (Banner of Truth Trust 1991) (1859).

96. Randall, *supra* note 91; LONG, *supra* note 88, at 37.

97. LONG, *supra* note 88, at 174.

revival appealed to a broad cross section of Protestantism, as Lanhier purposefully constructed it ecumenically to broaden his constituency and sidestep doctrinal controversies.⁹⁸ Newspapers played an important role in the movement's spread.⁹⁹

Initially promoted by religious papers, by February 1858, secular papers owned by Gordon Bennett (*New York Herald*) and Horace Greely (*New York Daily Tribune*) realized the revivals were a potential money-maker.¹⁰⁰ By late spring, their papers contained colorful accounts of prayer meetings, conversions, and charismatic characters.¹⁰¹ Kathryn Long details how this was emblematic of the way business practices were coming to the church.¹⁰² At the same time, secular businesses realized that church and revivalism were big business.¹⁰³ New connections between commerce and religion abounded as ministers increasingly wrote books about the need for Christian character in business and businessmen committed to foregoing shady and immoral practices in their workplace.¹⁰⁴ While many historians have detailed the second half of the nineteenth century as a time of feminization in American Protestantism, the revival of 1857 to 1859 suggests that the "Christian businessman" was just as powerful an archetype as the "Victorian mother."¹⁰⁵

It would be shocking if the four brothers who founded Harper & Brothers, the largest and most powerful publishing house during the time of the businessman's revival, did not participate in prayer meetings. James, John, Joseph Wesley, and Fletcher Harper were born over an eleven-year span from 1795 to 1806 and grew up in a fervently Methodist home.¹⁰⁶ Their parents' house was a revolving door for Methodist preachers, to the

98. *See id.* at 18.

99. *Id.* at 37.

100. *Id.* at 26–28.

101. *See id.* at 27.

102. Kathryn T. Long, "Turning . . . Piety into Hard Cash": *The Marketing of Nineteenth-century Revivalism*, in *GOD AND MAMMON: PROTESTANTS, MONEY, AND THE MARKET, 1790–1860*, at 236, 236–61 (Mark A. Noll ed., 2001).

103. *Id.*

104. While it is true that Whitefield used newspapers to publicize his 1740 revivals and Ben Franklin used the revivals to make money, Long argues that in 1858 the secular press was using the revivals to make money to a much greater degree than was previously made during the colonial-era Great Awakening. *Id.*

105. *See* Barbara Welter, *The Feminization of American Religion: 1800–1860*, in *CLIO'S CONSCIOUSNESS RAISED: NEW PERSPECTIVES ON THE HISTORY OF WOMEN* 137, 137–57 (Mary S. Hartman & Lois W. Banner eds., 1974); *see also* ANN DOUGLAS, *THE FEMINIZATION OF AMERICAN CULTURE* (1978) (foundational work in the "Feminization Thesis").

106. *See James and Wesley Harper*, in *THE TRADE CIRCULAR ANN. FOR 1871*, at 114 (1871), <https://archive.org/details/tradecircularann00pylo/page/n131/mode/2up> [<https://perma.cc/DXE4-GSXH>]; *James Harper*, *HARPER'S WKLY.*, Apr. 17, 1869, at 241–42; *Fletcher Harper*, *N.Y. DAILY TRIB.*, May 30, 1877, at 4, <https://chroniclingamerica.loc.gov/lccn/sn83030214/1877-05-30/ed-1/seq-4/> [<https://perma.cc/P2CE-Q64G>].

point that the Harpers' guestroom earned the nickname, "the Preacher's bed-room."¹⁰⁷ This was a family tradition, as the boys' grandfather hosted traveling ministers as well.¹⁰⁸ Fletcher's grandson, J. Henry, believed this constant, close exposure to preachers, such as Francis Asbury, was foundational to the formation of the brothers' character, exerting "a lasting influence" and teaching "them much of that courtesy of manner which marked them through life."¹⁰⁹

The eldest two brothers, James and John, moved to New York City where they worked as journeymen in Pearl Street's flourishing printing and publishing industry and became regulars at the nearby John Street Methodist Church. Soon, the eldest two brothers struck out on their own, creating a printing business first known as J & J Harper.¹¹⁰ One of their earliest customers was the Methodist Book Concern, which used J & J Harper, in addition to several other printers, to produce its works throughout the 1820s. Their partnership with the Methodist Book Concern brought the Harpers into the orbit of the Concern's president, Nathan Bangs, who worked over the next forty years to elevate the intellectual life of American Methodism.¹¹¹ Bangs was sharply critical of what he termed the Methodist Church's anti-intellectual "foul blot" on its character, which he blamed on its indifference to "the cause of literature and science."¹¹² Bangs represented a faction of Methodists determined to shed its stereotype of emotional excess stoked by an unlearned, itinerant clergy.¹¹³ The Harpers printed their first Bible for Bangs in 1822, a five-volume version containing a dense commentary by Joseph Benson, a prominent English Methodist and contemporary of the Wesleys. The production of

107. JAMES CEPHAS DERBY, *FIFTY YEARS AMONG AUTHORS, BOOKS AND PUBLISHERS* 88 (New York, G.W. Carelton & Co. 1884).

108. *THE TRADE CIRCULAR ANN. FOR 1871*, *supra* note 106.

109. J. HENRY HARPER, *THE HOUSE OF HARPER: A CENTURY OF PUBLISHING IN FRANKLIN SQUARE* 33 (1912); *see also Fletcher Harper*, *HARPER'S WKLY.*, June 16, 1877, at 457–58; *John Harper*, *HARPER'S WKLY.*, May 8, 1875, at 373–74; *The Harper Brothers*, *PUBLISHERS' TRADE LIST ANN.*, Aug. 1877, at v, vi; Francis Asbury, *The Journal and Letters of Francis Asbury – Volume 1*, WESLEY CTR. ONLINE, <http://wesley.nnu.edu/other-theologians/francis-asbury/the-journal-and-letters-of-francis-asbury-volume-i/francis-asbury-the-journal-vol-1-chapter-16/> [<https://perma.cc/YX98-XMW6>]. *See generally* Scott Casper, *Case Study: Harper & Brothers*, in 2 *A HISTORY OF THE BOOK IN AMERICA: AN EXTENSIVE REPUBLIC: PRINT, CULTURE, AND SOCIETY IN THE NEW NATION, 1790–1840*, at 128 (Robert A. Gross & Mary Kelley eds., 2010).

110. *THE TRADE CIRCULAR ANN. FOR 1871*, *supra* note 106.

111. *See HATCH*, *supra* note 67, at 202–04.

112. 4 NATHAN BANGS, *A HISTORY OF THE METHODIST EPISCOPAL CHURCH: FROM THE YEAR 1829 TO THE YEAR 1840*, at 70 (New York, G. Lane & P. P. Sandford 1840).

113. *See HATCH*, *supra* note 67, at 202–04; *see also* William R. Sutton, "To Extract Poison from the Blessings of God's Providence": *Producerist Respectability and Methodist Suspicions of Capitalist Change in the Early Republic*, in *METHODISM AND THE SHAPING OF AMERICAN CULTURE* 223, 236 (Nathan O. Hatch & John H. Wigger eds., 2001).

similar products over the next fifty years demonstrated the degree to which the Harpers absorbed Bangs' embrace of a cultured, intellectual faith.¹¹⁴

By the mid-nineteenth century, observers thought the Harpers had probably built the largest publishing operation in the world and acknowledged their tremendous influence over the industry.¹¹⁵ Their business clearly qualified as a CBE, and as the influential nineteenth century publisher Evert Duyckinck wrote in his diary on January 5, 1842:

They are remarkable men, the Harpers[,] and have undoubtedly been raised and sustained in their position by their energy and enterprise. They are keen and wary[,] with little compunction and scent a falling author very rapidly . . . John Harper is the more godly[,] for the firm is religious, some people requiring for more of this article or what passes for it than others.¹¹⁶

The Harpers' firm was a perfect template for what converts during the 1857–59 revivals were supposed to embody: wise and innovative men of the marketplace, utilizing practices shaped by their religious convictions. The Harpers went one step further, using their Protestantism to shape the products they produced. Endeavoring to produce works that would improve the virtue of the general populace, the titles in their annual catalogues helped reinforce a broadly Victorian Protestant sensibility.¹¹⁷ The revivals of the late 1850s cemented the archetype of the Christian businessman that subsequent generations of proprietors would embrace, as the retailers of the late nineteenth century, such as D. L. Moody and John Wanamaker, would demonstrate.

114. SAMUEL A. SEAMAN, *ANNALS OF NEW YORK METHODISM, BEING A HISTORY OF THE METHODIST EPISCOPAL CHURCH IN THE CITY OF NEW YORK FROM A.D. 1766 TO A.D. 1890*, at 495 (New York, Hunt & Eaton 1892); 2 REV. JOSEPH BENSON, *THE HOLY BIBLE, CONTAINING THE OLD AND NEW TESTAMENTS, WITH CRITICAL, EXPLANATORY, AND PRACTICAL NOTES* (New York, G. Lane & C.B. Tippet 1846).

115. See *Publishers: Their Past, Present, and Future in the U.S.: The Present*, 1 AM. PUBLISHERS' CIRCULAR & LITERARY GAZETTE (Nov. 17, 1855); Frederick Lewis Allen, *One Hundred Years of Harper's*, HARPER'S MAG., Oct. 1950, at 23, 26; JACOB ABBOTT, *THE HARPER ESTABLISHMENT; OR, HOW THE STORY BOOKS ARE MADE* 13–23, 41–54 (New York, Harper & Brothers 1855); Frederick Saunders, *The Publishing Business*, 24 LITTELL'S LIVING AGE, Feb. 9, 1850, 272, 274 (New York, Living Age 1850); Frederick Saunders, *The Publishing Business*, 6 THE LITERARY WORLD; A JOURNAL OF SCIENCE, LITERATURE, AND ART, Jan. 5, 1850, at 11.

116. EVERT A. DUYCKINCK, *DIARIES OF EVERT A. DUYCKINCK* (1843).

117. HARPER & BROTHERS, *CATALOGUE OF BOOKS* 15 (New York, Harper & Brothers 1845); HARPER & BROTHERS, *HARPER'S ILLUSTRATED CATALOGUE OF VALUABLE STANDARD WORKS, IN THE SEVERAL DEPARTMENTS OF GENERAL LITERATURE* 140 (New York, Harper & Brothers 1847); WILLIAM H. DEMAREST, *THE HARPER'S CATALOGUE, 1817–1879, ARCHIVES OF HARPER & BROTHERS, 1817–1914* (Chadwyck-Healy 1980) (microfilm reel 24).

D. Late Nineteenth & Early Twentieth Century: Corporate Evangelicalism

Dwight L. Moody embodies the legacy of the revivals of 1857–59. Born in Northfield, Massachusetts, in 1837, Moody’s childhood overlapped the dynamic transformation of the Early National Period economy: construction of canals and railroads; the rise of factories and decline of artisanship and urban growth; and an influx of Irish immigration.¹¹⁸ He did not follow his father into masonry; instead, it was a family boot and shoe store in Boston that introduced Moody to salesmanship.¹¹⁹ After growing up in his mother’s Unitarian church, he joined the YMCA in Boston and began attending a church founded by a noted evangelist, Edward N. Kirk.¹²⁰ After two years in Boston, Moody moved to Chicago in 1856 seeking economic opportunities.¹²¹ Building on his sales experience, he found a job as a clerk at a footwear firm in Chicago, just as the industry underwent rapid expansion in the city.¹²² Before long, Moody was traveling as a company salesman throughout the Illinois towns that were situated on railroad lines, earning him a comfortable standard of living, which he used to speculate in real estate.¹²³ However, it was the noontime urban prayer meetings that altered the trajectory of Moody’s life, causing him to vigorously embrace evangelism as he started his own mission school in 1859.¹²⁴ The following year, he completely abandoned his successful business career for full-time ministry work as an evangelist.¹²⁵

While it is possible to go too far in describing the masculine character of the revivals—women continued to participate prominently, often in equal or sometimes greater numbers—in targeting businessmen, the revivals served to introduce a new generation of America’s entrepreneurs to relevant religion.¹²⁶ The honesty, discipline, and sober-minded character that converts strove to introduce into their businesses complimented the process of rationalization and professionalization that

118. JAMES F. FINDLAY, JR., *DWIGHT L. MOODY: AMERICAN EVANGELIST, 1837–1899*, at 25–31 (1969).

119. *Id.* at 32–44.

120. *Id.* at 46–49.

121. *Id.* at 52–53.

122. *Id.* at 58.

123. *Id.* at 59.

124. *Id.* at 69–74.

125. *Id.* at 88; *see also* DWIGHT L. MOODY, *SECRET POWER; OR, THE SECRET OF SUCCESS IN CHRISTIAN LIFE AND CHRISTIAN WORK* (Chicago, J. L. Regan & Co. 1881). Bill Bright, founder of Campus Crusade for Christ, is a similar, twentieth century example of a businessman turned evangelist. JOHN G. TURNER, *BILL BRIGHT & CAMPUS CRUSADE FOR CHRIST: THE RENEWAL OF EVANGELISM IN POSTWAR AMERICA 2* (2008).

126. *See* LONG, *supra* note 88, at 135

characterized corporate growth in the aftermath of the Civil War. Even as revivalists such as Moody adopted the techniques of the 1857–59 revivals by advertising in urban newspapers and YMCAs, as well as holding noontime prayer and revival meetings in business districts, his converts strove to integrate their newfound religiosity into their marketplace activities.¹²⁷

D. L. Moody was part of a group historian Timothy Gloege calls “corporate evangelicals,” whose religion “was not only compatible with modern consumer capitalism but also uniquely dependent on it.”¹²⁸ Some, like Quaker Oats president, Henry Parsons Crowell, and Chicago real estate developer, William E. Blackstone, were powerful corporate and religious leaders, while others, like Moody, left their business backgrounds behind for full-time evangelism.¹²⁹ Business-oriented American Protestants, like Moody, were also the vanguard of an emerging movement called Fundamentalism. This movement staked out what its proponents argued were the essential beliefs of Christianity amid a larger movement of theological liberalism in the late nineteenth century.¹³⁰

Fundamentalism took its name from the reference text of the movement, *The Fundamentals*, a compilation of essays published in twelve volumes from 1910 to 1915 that staked out the non-negotiables of the Christian faith. For example, volume one defended the legitimacy of the virgin birth of Christ.¹³¹ The project was the idea of Presbyterian Lyman Stewart (founder of Union Oil and the Bible Institute of Los Angeles (Biola)), who, along with his brother, provided the funds for the publications of the so-called “fundamentals” of the faith.¹³² Fundamentalists such as Moody embraced innovative tactics to organize

127. *See id.* at 127–36.

128. TIMOTHY E. W. GLOEGE, *GUARANTEED PURE: THE MOODY BIBLE INSTITUTE, BUSINESS, AND THE MAKING OF MODERN EVANGELICALISM* 2 (2015); *see also* Timothy E. W. Gloege, *Fundamentalism and the Business Turn*, in *THE BUSINESS TURN IN AMERICAN RELIGIOUS HISTORY* 46–71 (Amanda Porterfield, Darren Grem & John Corrigan eds., 2017).

129. GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 117–30, 142–44, 148–56; MATTHEW AVERY SUTTON, *AMERICAN APOCALYPSE: A HISTORY OF MODERN EVANGELICALISM* 8–46 (2014). Crowell was chairman of Moody Bible Institute’s board for forty years, while Blackstone wrote a key fundamentalist text, *Jesus is Coming*, and was a leader in the American Zionist movement. *See* GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 117–30, 142–44, 148–56; SUTTON, *supra*; *see also* WILLIAM E. BLACKSTONE, *JESUS IS COMING* (3d ed. 1916).

130. My definition of fundamentalism is (1) dispensational premillennial, (2) morally legalistic, (3) culturally oppositional, and (4) reliance on a plain reading of the Bible. *See* GEORGE M. MARSDEN, *FUNDAMENTALISM AND AMERICAN CULTURE* 4–6 (2d ed. 2006); SUTTON, *supra* note 129, at x–xiv, 3–6; GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 12–13, 27–29.

131. James Orr, *The Virgin Birth of Christ*, in 1 *THE FUNDAMENTALS: A TESTIMONY TO THE TRUTH* 7 (1910).

132. MARSDEN, *supra* note 130, at 118–19; *see also* GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 163–81; SUTTON, *supra* note 129, at 82–91.

and evangelize, including adopting business principles and partnering with businessowners. They advanced a faith that proudly resisted attempts to modernize and liberalize its theology.¹³³ Fundamentalists' millennial beliefs invested the movement with a strong sense of urgency.¹³⁴ Gloege argues *The Fundamentals* was an example of the intersection of business and religion, as fundamentalists created it to foster a historical legitimacy and orthodoxy for their movement, imitating how Henry Crowell's marketing gave Quaker Oats a "historic patina."¹³⁵

Philadelphia businessman, John Wanamaker, embodied what Kathryn Long terms the "revival generation, loosely analogous to the twentieth-century 'sixties generation,'" because of their visceral experience with the 1857–59 revivals.¹³⁶ Unlike Moody, who felt compelled to leave business for full-time Christian service, Wanamaker rejected Moody's counsel to do likewise.¹³⁷ Fusing religion and business, Wanamaker organized and supported revivals even as he built his famous Philadelphia department store.¹³⁸ Not coincidentally, his store served as the launching point of Moody's 1875 Philadelphia revival.¹³⁹

Although the life experiences of Moody and Wanamaker overlapped in many ways, their respective visions of business and religion differed significantly. Like Moody, Wanamaker taught popular Sunday school classes, worked for the YMCA, and actively participated in the 1857–59 revivals. Born during the panic of 1838–39 to a family of brickmakers, Wanamaker sold himself as a living Horatio Alger, starting work as an errand boy at a Philadelphia dry goods store, which seems to have sparked his interest in retail.¹⁴⁰ He moved to Philadelphia to work for a men's clothier, where the owner tutored him in the finer points of the rapidly transforming nature of urban retail.¹⁴¹ At the same time, Wanamaker's spiritual growth took place at First Independent Presbyterian Church, where he heard Reverend John Chambers deliver sermons on the practical implications of the gospel, including social reform and humanitarianism, which set the stage for his embrace of the social gospel movement.¹⁴² So, it was natural that he would accept a position as secretary of the

133. GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 9–10

134. *Id.*

135. *Id.* at 9.

136. LONG, *supra* note 88, at 129.

137. GLOEGE, *GUARANTEED PURE*, *supra* note 128, at 48.

138. *Id.*; NICOLE C. KIRK, *WANAMAKER'S TEMPLE: THE BUSINESS OF RELIGION IN AN ICONIC DEPARTMENT STORE 2–3* (2018).

139. Wanamaker had recently purchased an old train depot and turned it into his new store after the revival. KIRK, *supra* note 138, at 2, 46–49.

140. *Id.* at 17–21.

141. *Id.* at 21–22.

142. *See id.* at 22–24, 37–39.

Philadelphia YMCA, where he played a leading role in stoking the revivals of 1858–59.¹⁴³

Despite his work with the YMCA and a successful missionary Sunday school, Wanamaker did not agree with Moody that full-time Christian ministry was one's highest calling.¹⁴⁴ In 1861, Wanamaker opened a men's clothing store using money he earned from his employment with the YMCA.¹⁴⁵ Using creative advertising techniques, his business slowly grew to multiple locations before opening his famous Grand Depot location, the site of the aforementioned Moody revival.¹⁴⁶ He believed his store had "a higher purpose" that would improve the morals of his community through its business practices and products.¹⁴⁷ This purpose was embodied in his flagship Philadelphia store/temple and was punctuated by one of the country's most magnificent pipe organs.¹⁴⁸ His attitude echoed Weber's arguments about the Puritan theology of vocation. As Nicole Kirk explains, "Wanamaker saw his retail empire not as separate from religion but as an instrument of it, as a means for achieving moral reform in business, in the city, and in individuals' lives."¹⁴⁹ Both integrity and character mattered to Wanamaker, who wanted to rehabilitate retail's reputation, explaining, "I would like to use my store as a pulpit on week days . . . to lift people up that they may better lift themselves up."¹⁵⁰ Such community-minded evangelism contrasted with the individualistic, salvation-focused theology of Moody and other late-nineteenth and early-twenty-first century fundamentalists, who stressed the need to get everyone on board of a "lifeboat," since the current world was "a wrecked vessel."¹⁵¹

As much as businessmen may have reflected on Weber's argument about Calvinism's idea of a "calling," Wanamaker swam in a river that was quite anti-Weber at the same time. Weber's other key argument was that a "worldly aestheticism" described the way capitalistic societies, such as colonial New England, looked askance at wealth and excess, causing them to live frugally, efficiently, and reinvest their profits into their businesses. Kirk argues that late-nineteenth and early-twentieth century

143. *Id.* at 24–28. As Kirk notes, the social gospel movement did not preclude an emphasis on revivalism and conversion in the late nineteenth century. *Id.* at 38–39.

144. *See id.* at 28–34.

145. *Id.* at 41.

146. *Id.* at 42–54.

147. *Id.* at 60–62, 72–87.

148. *See id.* at 51.

149. *Id.* at 7.

150. *Id.* at 75.

151. M. LAIRD SIMONS, HOLDING THE FORT: COMPRISING SERMONS AND ADDRESSES AT THE GREAT REVIVAL MEETINGS CONDUCTED BY MOODY AND SANKEY, at xxiv (1877).

Protestant businessmen, such as Wanamaker, embraced wealth.¹⁵² She points to famous sermons, like Baptist Russell Conwell's "Acres of Diamonds" lecture, delivered thousands of times to anxious Americans longing to hear that their upward mobility was divinely sanctioned.¹⁵³ Conwell delivered the goods:

I say that you ought to get rich, and it is your duty to get rich. How many of my pious brethren say to me, "Do you, a Christian minister, spend your time going up and down the country advising young people to get rich, to get money?" "Yes, of course I do." They say, "Isn't that awful! Why don't you preach the gospel instead of preaching about man's making money?" "Because to make money honestly is to preach the gospel." That is the reason.¹⁵⁴

Conwell and Wanamaker, who published, signed, and distributed thousands of copies of the sermon, did emphasize the need for ethics in business, viewing riches as one's just reward for conducting one's market activities honestly, a theology that echoed in the prosperity gospel popularized by Pentecostals, such as Jim and Tammy Faye Bakker, in the 1980s.¹⁵⁵ As Conwell explained,

The men who get rich may be the most honest men you find in the community. "Oh," but says some young man here to-night, "I have been told all my life that if a person has money he is very dishonest and dishonorable and mean and contemptible." My friend, that is the reason why you have none, because you have that idea of people. The foundation of your faith is altogether false. Let me say here clearly, and say it briefly, though subject to discussion which I have not time for here, ninety-eight out of one hundred of the rich men of America are honest. That is why they are rich It is because they are honest men.¹⁵⁶

At the same time, Conwell did not preach a theology of vocation. Instead, he argued, "Money is power," and one could "do more good with it than you could without it. Money printed your Bible, money builds your churches, money sends your missionaries, and money pays your preachers, and you would not have many of them, either, if you did not pay them."¹⁵⁷

152. KIRK, *supra* note 135, at 15–16.

153. *Id.*

154. RUSSELL H. CONWELL, ACRES OF DIAMONDS 18 (1915).

155. See generally JOHN WIGGER, PTL: THE RISE AND FALL OF JIM AND TAMMY FAYE BAKKER'S EVANGELICAL EMPIRE (2017).

156. CONWELL, *supra* note 154, at 18–19.

157. *Id.* at 20.

This points to an ongoing tension in the history of business and Christianity in America. What is the true value of one's marketplace activity, and does it have any connection to one's faith? Conwell's gospel was influential and it now pervades the way many twenty-first century Evangelicals think about their work weeks. As Phil Vischer, the creator of the children's cartoon series, *VeggieTales*, explains:

So I grew up, this is what is valuable to do: number one, be a missionary to somewhere where you could be eaten . . . (that's the most valuable thing); number two, be a missionary to a place where you probably won't be eaten (not quite as valuable, but it's still good); number three, be a pastor . . . (you can't be eaten, but metaphorically); and number four, be a successful businessman, so you can fund the people doing number one, number two, and number three. And that was it.¹⁵⁸

Although his work to spread Conwell's gospel propagated a similar message—that one's vocation was only important as a vehicle for furthering the gospel—Wanamaker also thought his business should reflect a Christian approach.¹⁵⁹ He sought to create a family-oriented, moral workforce: a place that treated its customers fairly and promoted his ideals through aggressive, creative advertising campaigns (except on Sundays).¹⁶⁰ Wanamaker's mottos, "One Price and Return of Goods!" and "A Square Deal Upon Solid Principles," summarized an approach that allowed customers to browse without making purchases, utilized price tags while dispensing with haggling, and offered money back guarantees that were collectively sought to rehabilitate retailers' reputation for swindling shoppers.¹⁶¹ As Wanamaker summarized, "the Golden Rule of the New Testament has become the Golden Rule of business."¹⁶²

To articulate his vision of moral retail, Wanamaker took six years to build a new flagship store in Philadelphia, which drew inspiration from the emblem of modern business, the skyscraper, with simple and clean lines outside, bristling with the latest technological innovations.¹⁶³ Within, its Grand Court was seasonally dressed as a Gothic cathedral.¹⁶⁴ Orchestras, bands, employee singing, and seasonal caroling, led by the

158. *Redeeming Work*, THE HOLY POST, at 16:01 (Aug. 2, 2016), <http://thephilvischerpodcast.libsyn.com/episode-211-redeeming-work-live-from-okoboji-wtom-nelson> [https://perma.cc/67ZS-X35E].

159. KIRK, *supra* note 138, at 75–77.

160. *Id.*

161. *Id.* at 76–77.

162. *Id.* at 77. Although Wanamaker hired African Americans to low-level positions, his vision of a moral workforce largely equaled white, nonimmigrant Protestants. *See id.* at 88–92, 121–22.

163. *See id.* at 78–87.

164. *Id.* at 175, 201.

world's second largest organ, reinforced the spiritual experience of Wanamaker's store.¹⁶⁵ For Christmas and Easter, the displays in the Grand Court supplemented the aural experience with visual gospel lessons.¹⁶⁶

Wanamaker's approach to religion and business created a CBE that achieved national fame. Everyone knew what he stood for, even if some questioned the sincerity, motives, and authenticity of his faith, such as Wanamaker's promotion of prosperity gospel theology. If the late 1850s established the archetype of the Christian businessman, then late-nineteenth-century revivalists, such as D.L. Moody, spoke the language of proprietors like Wanamaker who comfortably blended religion, capitalism, and nationalism in their businesses. The blurring of lines between one's business and religion in the service of the nation became more common in the twentieth century, as the nation fought World War II and the Cold War with the Soviet Union.

II. MODERN ENTERPRISES & GOD'S BUSINESSMEN

As the Red Scare flourished in the aftermath of World War I, the Christian businessman archetype came to the rescue. Fiercely patriotic, such proprietors viewed their work as glorifying God, defending a godly economic system, and serving a national interest. This was especially true during World War II and the Cold War. These businesses were founded on Christian principles, run according to religious conviction, and proved materially successful. They provided the template for the controversial twenty-first century Christian businesses that have turned to the courts to defend their claims of religious accommodation.

A. World War II & the Cold War: God's Businessmen

World War II, like previous armed conflicts, provided an opportunity for entrepreneurs who sought to incorporate religious ideals into their businesses. One such individual was Walter C. Meloon, who started Florida Variety Boat Company (now known as Correct Craft, a leader in the water-ski industry) near Orlando, Florida, in 1925.¹⁶⁷ Although he contributed to the creation of the waterskiing industry,¹⁶⁸ Meloon is largely

165. *Id.* at 108–09, 168–86, 190–91, 201. The Wanamaker organ is usually considered the largest, fully operating organ as the Boardwalk Hall organ in Atlantic City, New Jersey, is larger, but damaged and not fully operational.

166. *Id.* at 154–64, 174–86.

167. ROBERT G. FLOOD, *ON THE WATERS OF THE WORLD: THE STORY OF THE MELOON FAMILY* 31–32 (1989); JAMES VINCENT, *PARTING THE WATERS: HOW VISION AND FAITH MAKE GOOD BUSINESS* 33–39 (1997).

168. VINCENT, *supra* note 167, at 37–38.

unknown to most Americans.¹⁶⁹ During the war, Meloon responded to an urgent request from General Dwight D. Eisenhower for seventeen-foot boats (to cross the Rhine River), by committing to build 300 boats in nineteen days—250 boats above Meloon’s company’s planned output that month.¹⁷⁰ Meloon often recounted the story of his “miracle” fulfillment of the Army’s order, which he accomplished while resisting government pressure to keep his plant open on Sundays and continuing to break for weekly chapel services.¹⁷¹ A mere sixteen days after the initial request, his son Ralph famously cited scripture and daily prayer in confirmation of how the family believed their religious principles allowed them to build 306 boats.¹⁷²

Although the Meloons claimed Correct Craft nearly sank because its religious principles would not allow it to pay off government inspectors, the family firmly believed piety was the key to their ultimate success.¹⁷³ As one of Walt’s sons explained, “The business principles, ethics, and morals of Correct Craft are abided through God’s strength and wisdom and enable us to stand strong, unyielding to mediocrity.”¹⁷⁴ These principles included using “God’s wisdom” to make long-range plans and goals, to treat its employees generously, and to offer lifetime warranties to its customers.¹⁷⁵ In addition to observing the Sabbath—something especially frustrating to customers at weekend boat shows—the Meloons instituted weekly chapel services in 1943 and forbid alcohol at all company functions and any alcohol sponsorship.¹⁷⁶ Correct Craft hired non-Christians, but the Meloons expected their employees to support the company’s policies and principles.¹⁷⁷ Correct Craft also partnered with Christian colleges and youth and family camps, offering their boats at wholesale prices and paying dealers \$1,000 to help defray their lost profit.

169. The Meloon family no longer runs Correct Craft, having turned over control to a professional management team in 2001 and selling the last of their company stock in 2008. The company is now run by Ambassador Enterprises, a private equity firm that uses its profits to aid nonprofits. Linda Florea, *Boat Builder Rides the Tides*, ORLANDO SENTINEL (Oct. 12, 2009), <https://www.orlandosentinel.com/news/os-xpm-2009-10-12-0910090068-story.html> [<https://perma.cc/W47R-SAH5>].

170. Ralph C. Meloon, Sr., *Miracle in Boats*, in *YOU & YOUR BOAT* 6–8 (1978), <https://www.planetnautique.com/CorrectCraftManuals/1978/ccmanual.pdf> [<https://perma.cc/VB7U-L8F3>]. As a youth I heard one of Walt Meloon’s sons speak at Camp-of-the-Woods, Speculator, New York. He gave this same basic account.

171. *Id.*

172. *Id.*

173. FLOOD, *supra* note 167, at 9; see VINCENT, *supra* note 167, at 91–103 (discussing the author’s opinion on best practices for employees and customers).

174. *Id.*

175. *Id.*

176. VINCENT, *supra* note 167, at 43, 82–85.

177. *Id.* at 47–51.

This relationship was mutually beneficial: nonprofits could buy top-of-the-line equipment that helped attract campers, while Correct Craft advertised its Ski Nautique brand to thousands of adolescents and parents, leading to future sales.¹⁷⁸

Correct Craft became famous in evangelical circles in the 1980s (and even the subject of a case study for a business school textbook) for its experience with government contracting and bankruptcy.¹⁷⁹ The family retold a story about problems with a government contract in the late 1950s that led to hundreds of rejected fiberglass assault boats in seminars, conferences, books, and periodicals such as *Readers Digest*.¹⁸⁰ The Meloons claimed the rejections were the result of their failure to pay off government inspectors, but regardless, the contract drove the company into bankruptcy protection in 1958.¹⁸¹ Despite a final settlement in 1965 that allowed Correct Craft to pay off all its creditors twenty percent of what the company owed, the Meloons spent the next twenty years paying all their hundreds of creditors one hundred percent of what they owed.¹⁸² What excited their audiences was the Meloons' certainty that God honored their ethical practices by engineering a spectacular turnaround: In the 1980s, Ski Nautique became the "it" brand, thus creating a boon for Correct Craft.¹⁸³ In the late 1980s, Walter N. Meloon, Walt's son and now company president, echoed Wanamaker and claimed the Correct Craft's mission still carried out the vision of his father to produce "quality recreational boats and servicing our customers at a profit as a means of glorifying God and rendering Him excellent."¹⁸⁴

By instituting weekly chapel services, Walt Meloon was following the example of engineer Robert Gilmour LeTourneau (known as "R.G."), who also held beliefs similar to Wanamaker's. Letourneau argued that "God needs businessmen as partners as well as preachers" and believed that God wanted humans to "build for His greater glory."¹⁸⁵ LeTourneau became famous in the mid-twentieth century for his innovative earth-

178. *Id.* I witnessed this first hand at Camp-of-the-Woods family resort in the 1980s. Correct Craft not only supplied boats to the camp for its water sports programming, but a regional dealer also trailered up a brand new Nautique each year with the expectation that it would sell it to a camper.

179. GEORGE A. STEINER & JOHN F. STEINER, *BUSINESS, GOVERNMENT, AND SOCIETY: A MANAGERIAL PERSPECTIVE* 178–80 (8th ed. 1997).

180. John S. Tompkins, *These Good Guys Finish First*, *READER'S DIG.*, June 1992, at 140–41.

181. VINCENT, *supra* note 167, at 56–57.

182. *Id.*

183. The Army Corps of Engineers offered Correct Craft \$40,000 in 1965 to drop the complaint the Meloons filed against the government. JAMES VINCENT, *PARTING THE WATERS: HOW VISION AND FAITH MADE GOOD BUSINESS* at 63–78 (1997); *see also* FLOOD, *supra* note 167, at 51–68.

184. FLOOD, *supra* note 167, at 9.

185. ROBERT GILMOUR LETOURNEAU, *MOVER OF MEN AND MOUNTAINS* 1 (Moody Press 1972) (1960).

moving equipment, which supplied almost 75% of such equipment used by the U.S. military in World War II and earned him over 299 patents.¹⁸⁶ God was an active and consistent partner for LeTourneau; it was not enough to merely “read the Bible once in a while and obey the Golden Rule.”¹⁸⁷ But it was his 1932 pledge to give away 90% of his profits (most to his religious LeTourneau Foundation), refusal to work on Sundays, dedication of his new plants to God (events which doubled as revival meetings), and employment of industrial chaplains that gained him the moniker “God’s businessman.”¹⁸⁸

Life celebrated LeTourneau as “America’s most spectacular maker of earth-moving machines” and “in partnership with God,” and *Reader’s Digest* called him “an American Phenomenon.”¹⁸⁹ LeTourneau, like the Meloons, believed the success of his business was due to his dedication to God: “It is a well-known published and irrefutable fact . . . that when I promised to turn my profits over to the Lord, my business was on the rocks. The annual reports to stockholders show what has happened since.”¹⁹⁰ Working hard, resisting government pressure to work on Sunday, praying for God’s direction when faced with difficult decisions, and dealing ethically with partners and customers were all central to LeTourneau’s methodology.¹⁹¹ LeTourneau’s business operated on a much larger scale than Meloon’s, opening plants across the United States and even in Australia, each dedicated like the opening of a church. This was important to LeTourneau because it allowed him to highlight that his business belonged to God, to project the idea that a factory could be dedicated to God’s service, and to act as a means of saving souls, just like a church.¹⁹² LeTourneau convened voluntary weekly “gospel,” or chapel meetings for

186. See Dennis Karwatka, *R. G. LeTourneau and His Massive Earth-Moving Equipment*, *TECH.’S PAST*, May 2006, at 8.

187. LETOURNEAU, *supra* note 185, at 3.

188. Of course, LeTourneau’s chaplains were fundamentalist Protestant in their theology and worked for management, something that upset more liberal Protestants. See ELIZABETH FONES-WOLF & KEN FONES-WOLF, *STRUGGLE FOR THE SOUL OF THE POSTWAR SOUTH: WHITE EVANGELICAL PROTESTANTS AND OPERATION DIXIE* 101–02 (2015); see also LETOURNEAU, *supra* note 185, at 204–05. For a sampling of pieces celebrating LeTourneau, see ALBERT W. LORIMER, *GOD RUNS MY BUSINESS: THE STORY OF R.G. LETOURNEAU* (1941); Don Wharton, *Heaven and Earth Man*, *READER’S DIG.*, Mar. 1944, at 99–102; Rufus Jarman, *LeTourneau: America’s Most Spectacular Maker of Earth-Moving Machines is “In Partnership with God,”* *LIFE MAG.*, Oct. 16, 1944, at 49, 49–59. For a slightly more cynical profile, see Amy Porter, *God’s Partner*, *COLLIER’S*, Dec. 25, 1943, at 36, 75–76.

189. Jarman, *supra* note 188, at 49; see also Wharton, *supra* note 188, at 99.

190. Jarman, *supra* note 188, at 59.

191. LORIMER, *supra* note 188, at 45–49, 55–57.

192. LeTourneau built plants in Peoria, Illinois, Toccoa, Georgia, Vicksburg, Mississippi, Longview, Texas, and New South Wales, Australia. See *id.* at 68–69, 86–90.

both day and night shifts in his plants.¹⁹³ Although aspects of his religion permeated work life at his factories, he steadfastly maintained he evaluated employees on their work ethic and not religious affiliation.¹⁹⁴ In fact, LeTourneau wanted his shops to employ non-Christians. He thought the opportunity to mix with Christians in a Christian business would lead to their salvation, writing, “if I ever thought my crew was composed of men wholly dedicated to Christ, I would deliberately hire some non-believers for my crew to work on.”¹⁹⁵

Despite the banners he hung in his plants, proclaiming a “United Crusade for Christ,” LeTourneau’s workplace was no utopia.¹⁹⁶ Wartime labor strife was common throughout the country, and LeTourneau’s plants were no exception. In *NLRB v. LeTourneau Company of Georgia*, the Supreme Court found LeTourneau’s company guilty of unfair labor practices.¹⁹⁷ The charge that his company had intimidated workers attempting to unionize was hardly surprising. LeTourneau connected unions with communism, something he thought was profoundly antithetical to Christianity.¹⁹⁸ Despite his claim to support free speech, LeTourneau publicly wished

they would take every one that doesn’t believe America is the finest land under the sun, that doesn’t like our Government, that doesn’t like our way of doing business, and wants to teach us a new social order, and pick up every one of them by the seat of the pants and set him on a boat bound for the land he does like.¹⁹⁹

Both Meloon and LeTourneau were examples of the kind of Christian business owner Bruce Barton envisioned in his book, *The Man Nobody Knows*, which was published in 1925, the same year Meloon started his Florida boat company. Some pre-war Americans perceived a conflict between success as a Christian and success as a businessman.²⁰⁰ LeTourneau and Meloon sought to reconcile this conflict by embodying what Barton imagined Jesus Christ was actually like: a businessman who “picked up twelve men from the bottom ranks of business and forged them

193. *Id.* at 101–03, 123–24

194. *Id.* at 102.

195. LETOURNEAU, *supra* note 185, at 135; LORIMER, *supra* note 188, at 101–03.

196. LORIMER, *supra* note 188, at 101–03, 143.

197. *NLRB v. LeTourneau Co. of Ga.*, 324 U.S. 793, 805 (1945); *see also* FONES-WOLF & FONES-WOLF, *supra* note 188, at 101.

198. LORIMER, *supra* note 188, at 106–07

199. *Id.*; *see also* Sarah R. Hammond, “God is My Partner”: An Evangelical Business Man Confronts Depression and War,” 80 *CHURCH HIST.* 498, 516–17 (2011).

200. LORIMER, *supra* note 188, at 174–75.

into an organization that conquered the world.”²⁰¹ *The Man Nobody Knows* became an instant bestseller, was reprinted twenty-seven times from 1925 to 1927 and inspired an eponymous silent film.²⁰² Barton regarded Jesus as the first and greatest salesman.²⁰³ There was probably more than a bit of projection in his analysis, as Barton was a successful salesman himself. He founded Barton, Durstine & Osborn (BDO, which became BBDO after merging with George Batten), one of the most important and famous advertising agencies in the world.²⁰⁴ Barton emphasized ethics in advertising, even as he attracted his share of critics who charged him with cheapening religion on one hand and using religion to “sanctify” business on the other.²⁰⁵ Barton’s book and advertising enterprise helped codify the masculine, business-oriented theology sparked by the 1857–59 revivals, Moody, and Wanamaker.

LeTourneau, Meloon, and Barton collectively demonstrate that historians such as George Marsden have gone too far in describing a withdrawal of fundamentalist Christians from public life in the 1920s.²⁰⁶ The thesis has been incredibly influential in U.S. history more broadly, and feeds into the conventional wisdom that seems to lie beneath Justice Ginsburg’s dissent in *Hobby Lobby*. In academics and the arts, there are plenty of examples to support the “withdrawal” thesis, such as Bob Jones starting his eponymous university shortly after the Scopes Monkey Trial in 1925.²⁰⁷ However, this Article argues there was little withdrawal, if any at all, in business and politics, particularly in the face of the Great Depression and World War II. The oil industry, which emerged just as the 1857–59 revivals were beginning, provides a comprehensive example of this continued engagement. Darren Dochuk argues that Patillo Higgins was one of many Protestant fundamentalists, along with J. Howard Pew, president of Sunoco, who gave generously to evangelical organizations that would proclaim their gospel, such as *Christianity Today*, and shaped the oil industry in the southwest United States. Higgins wore his religion on his sleeve, preaching to his fellow congregants on Sunday and to his workers on Monday.²⁰⁸ Amid the fallout of scandals and economic upheaval in the oil industry, Dochuk credits outspoken Protestants, such

201. Richard M. Fried, *Introduction* to BRUCE BARTON, *THE MAN NOBODY KNOWS*, at vii, x (Indianapolis, Bobbs-Merrill 1925) (2000); LORIMER, *supra* note 188, at 166.

202. Fried, *supra* note 201, at vii–viii.

203. *See id.* at ix–x.

204. *Id.* at ix.

205. *Id.* at ix–xvii.

206. *See* MARS DEN, *supra* note 130, at 171.

207. *Id.* at 179.

208. Darren Dochuk, *Blessed by Oil, Cursed with Crude: God and Black Gold in the American Southwest*, 99 J. AM. HIST. 51 (2012).

as Higgins and Pew, who preached ethics and morality in business alongside active evangelism, with restoring its reputation in the eyes of the American public after World War II.²⁰⁹

Scholars such as Kevin Kruse and the late Sarah Hammond identify a shift in how Americans regarded free enterprise that begins in the 1930s and continues into the Cold War. These scholars credit the shift to a burgeoning alliance between Christian business leaders who espoused anti-New Deal politics, especially in the post-war South.²¹⁰ During the Cold War, Americans increasingly viewed the world dualistically as a choice between an atheistic-socialist future or one built upon God and free enterprise.²¹¹ Nationally known figures like LeTourneau played an important role in this cultural shift, as did lesser-known leaders like Walt Meloon. Similar to the Meloons, some of these individuals led family-run CBEs, but others, such as Pew, grew their businesses into multinational corporations.²¹² Even corporations that otherwise did not overtly exude religiosity gave into pressure from the National Association of Evangelicals and implemented the hiring of industrial chaplains in the 1950s, which was modeled directly after LeTourneau's business strategy.²¹³

It was no accident that many of these businesses flourished in the post-war South. Wartime investments led to a boom in manufacturing and industrial work, which intensified after the war as corporations looked for low-wage, non-union labor. More recently, scholars such as Bethany Moreton and Darren Grem have made a persuasive case that a vital, overlooked factor in this economic boom was the spread of pro-business evangelical Protestantism.²¹⁴ Leaders of industry and churches in the South found their interests mutually reinforcing. Business owners, such as LeTourneau and Pew, vocally opposed unions because they associated them with atheistic socialism.²¹⁵ In part to combat unionizing, they used significant portions of their profits to support Christian colleges and

209. *See id.* at 51–61; *see also* Darren E. Grem, *Christianity Today, J. Howard Pew, and the Business of Conservative Evangelicalism*, 15 *ENTER. & SOC'Y* 337 (2014) (discussing Pew's funding created tension at *Christianity Today* as he pressured its editors to vigorously attack liberal Protestants who supported unions and welfare policies).

210. *See* SARAH RUTH HAMMOND, *GOD'S BUSINESSMEN: ENTREPRENEURIAL EVANGELICALS IN DEPRESSION AND WAR* (Darren Dochuk ed., 2017); KEVIN M. KRUSE, *ONE NATION UNDER GOD: HOW CORPORATE AMERICA INVENTED CHRISTIAN AMERICA* (2015).

211. *See* HAMMOND, *supra* note 210, at 1–12; KRUSE, *supra* note 210, at ix–xvi.

212. FONES-WOLF & FONES-WOLF, *supra* note 188, at 94–95.

213. *See id.* at 102–03.

214. *See* BETHANY MORETON, *TO SERVE GOD AND WAL-MART: THE MAKING OF CHRISTIAN FREE ENTERPRISE* (2009); *see also* DARREN E. GREM, *THE BLESSINGS OF BUSINESS: HOW CORPORATIONS SHAPED CONSERVATIVE CHRISTIANITY* (2016).

215. MORETON, *supra* note 214.

ministries that promoted what Moreton calls “Christian free enterprise.”²¹⁶ Thanks to these sorts of partnerships, leaders of fundamentalist academic institutions such as Oral Roberts and Charles Fuller invested in growing industries, such as oil, while speaking out against central planning and unionizing in industries such as textile manufacturing.²¹⁷ Revivalists, such as Billy Graham, unabashedly partnered with Christian businessmen such as oil tycoon H. L. Hunt, who in turn pushed Graham to run for president.²¹⁸ As the influence of Christian businessmen in post-war industry grew, so did the power of these men to influence other aspects of American life.

The examples of post-war CBEs are too numerous to list in full. Howard E. Butt Jr. grew HEB grocery stores into an enormous Texas chain, W. Maxey Jarman aggressively expanded his father’s General Shoe Company (known now as Genesco), and Marion Wade built ServiceMaster into a multi-million-dollar, international corporation in the years following World War II.²¹⁹ Wade was a minor-league baseball player turned businessman who underwent a self-described “road to Damascus” experience when a chemical accident almost blinded him in 1944. The experience led him to wonder “what the Lord would do with a company that was entirely His.”²²⁰ Wade, who claimed a “born again” experience while attending the church started by D. L. Moody in Chicago, strongly believed, like LeTourneau and the Meloons, that incorporating one’s faith into the workplace was essential to eradicating “the moral bankruptcy which has made words like price-fixing, kick-backs and payola part of the business vocabulary.”²²¹ For Wade, it was only natural that “[t]he executive who calls himself a Christian is obligated to conduct his business in a Christian way or he is not a Christian.”²²² As for what this practically looked like, Wade referred executives to his operating manual: the Bible.²²³ He believed the Bible would inspire people to be virtuous and

216. *Id.* at 5.

217. See FONES-WOLF & FONES-WOLF, *supra* note 188, at 87–104. LeTourneau University continues to reflect its founder through its business school. See *The Exploration of Entrepreneurship*, LETOURNEAU UNIV.: SCH. OF BUS., <https://www.letu.edu/academics/business/index.html> [<https://perma.cc/G4NC-WVFP>].

218. See STEVEN P. MILLER, BILLY GRAHAM AND THE RISE OF THE REPUBLICAN SOUTH 98–102 (2009).

219. MARION E. WADE & GLENN D. KITTLER, THE LORD IS MY COUNSEL: A BUSINESSMAN’S PERSONAL EXPERIENCES WITH THE BIBLE 2–3 (1967). For a brief overview of Butt, Jarman, and Wade, see generally GREM, *supra* note 214, at 87–102.

220. WADE & KITTLER, *supra* note 219, at 77–84. Although, ServiceMaster is no longer overtly Christian, Lewis Solomon refers to it as a “secular, spiritual” corporation. LEWIS SOLOMON, EVANGELICAL CHRISTIAN EXECUTIVES: A NEW MODEL FOR BUSINESS CORPORATIONS 59–88 (2004).

221. WADE & KITTLER, *supra* note 219, at 2–3; SOLOMON, *supra* note 220, at 65.

222. WADE & KITTLER, *supra* note 219, at 4.

223. *Id.* at 8–10, 42–45, 105–17.

successful in business. Wade encouraged business leaders to concentrate less on their competition and more on themselves and their products.²²⁴ He was committed to producing the highest quality, and the most honest customer service possible. Wade thought that if business leaders would adopt this ethos, the federal agencies established to police the marketplace would be unnecessary.²²⁵ For Christian businessmen like Wade and LeTourneau, the government was not the answer to fixing the market. Rather, the answer was the personal conversion and integration of Jesus into all aspects of the businessperson's life.²²⁶

Wade's emphasis on Christian-based service characterized Wal-Mart's corporate ethos as it grew into an international behemoth in the 1970s and 1980s. Sam Walton leased a Ben Franklin store in 1945, which he ran for five years before striking out on his own in Bentonville, Arkansas.²²⁷ Walton's Five and Dime quickly proved successful enough that he opened what became the first Wal-Mart, in Rogers, Arkansas, in 1962.²²⁸ Though the founding generation of the Waltons were active members of liberal Protestant churches, historian Bethany Moreton argues that their stores functioned like quasi-megachurches in the 1990s.²²⁹ Customers could buy Bibles as well as the latest best-selling evangelical books. The Waltons knew that much of their rural customer base was fundamentalist or evangelical.²³⁰ They catered to their base by altering potentially offensive secular music covers and magazines; hosting gospel group performances in stores; and providing family advice from the Wal-Mart director of marriage and family living, Paul Faulkner, a professor at Abilene Christian University.²³¹

Wal-Mart partnered with Christian colleges, such as the University of the Ozarks, John Brown University, and Harding University, to develop business programs that taught Christian servant leadership, the philosophy that a leader's primary mission is to demonstrate empathy, humility, and concern for the development of their subordinates.²³² Consequently, the choice to empower others fosters a thriving company. This theory of leadership was part of a broader movement, embodied by Ken Blanchard, author of *The One Minute Manager*.²³³ In the 1990s, Blanchard underwent

224. *Id.* at 43–45.

225. *Id.*

226. *Id.* at 119–50, 165–78.

227. MORETON, *supra* note 214, at 25.

228. As of 2019, Wal-Mart goes by “Walmart.” When referring to the pre-2019 iteration, I use the former name. MORETON, *supra* note 214, at 24–34.

229. *Id.* at 98.

230. *Id.* at 90–94.

231. *See id.* at 100–01.

232. *Id.*

233. *See* KENNETH BLANCHARD & SPENCER JOHNSON, *THE ONE MINUTE MANAGER* (1982).

an evangelical conversion; took the principles of Christian business that dated back to Moody, Wanamaker, Barton, and LeTourneau; and combined them with secular leadership principles. His best-selling *Lead Like Jesus* functioned as a summary of the servant leadership principles that he taught at his Faith Walk Leadership Institute.²³⁴ Wal-Mart's university partnerships combined the supremacy of free market capitalism and servant leadership principles, even sponsoring an international scholarship program that functioned like a missionary endeavor, but one spreading the gospel of Adam Smith, not Jesus Christ.²³⁵ These relationships with Christian colleges and universities had the added benefit of serving as a Wal-Mart recruiting and development program, which provided a deep pool of college graduates to choose from as the company transitioned from a regional power to an international behemoth.²³⁶

Ultimately, personalities such as Blanchard and partnerships such as the one between Wal-Mart and Christian universities, created a loosely connected set of institutions that aimed to produce more Wanamakers, Meloons, LeTourneaus, and Pews: businessmen who integrated their faith and business activities as a sacred vocational offering to God. This represented an effort to institutionalize the concept of the Christian Business Enterprise, a pressing concern in light of looming threats to the capitalist system and a decline in Protestantism's cultural authority. Criticisms leveled at CBEs, such as Chick-fil-A and Hobby Lobby, and a series of court cases in the late-twentieth century illustrate how these cultural trends collided, culminating in *Burwell v. Hobby Lobby*.

B. Chick-fil-A, Hobby Lobby & the Christian Business Enterprise

Perhaps if the history of Christian business in the United States was more widely understood, Americans would not be surprised to discover that their favorite chicken sandwiches are made by a for-profit corporation that defines itself by a Christian ethos. Southern Baptist S. Truett Cathy opened his Dwarf Grill restaurant in Hapesville, Georgia, in 1946 where he developed pressure-fried chicken breast sandwiches that he could cook in four minutes.²³⁷ Taking advantage of the explosion of suburbs and mall retail in America in the 1960s and 70s, Cathy opened the first Chick-fil-A in the food court of the Greenbriar Mall in the Atlanta suburbs, the Southeast's first indoor regional shopping center.²³⁸ Cathy's decision to

234. Blanchard was accused of plagiarizing much of the best-selling *The One Minute Manager*. See Dick Teresi, *Wait a Minute*, WALL ST. J. (June 22, 2001), <https://www.wsj.com/articles/SB993165490163261262> [<https://perma.cc/QF5R-BH7D>]; MORETON, *supra* note 214, at 110–11.

235. See MORETON, *supra* note 214, at 222–47.

236. See *id.* at 134–72.

237. S. TRUETT CATHY, IT'S EASIER TO SUCCEED THAN TO FAIL 50, 117–24 (1989).

238. *Id.*

close Dwarf Grill on Sundays extended to Chick-fil-A.²³⁹ This decision emphasized the degree to which Cathy deferred to his Christian principles, since malls welcomed some of their highest weekly traffic on Sundays.²⁴⁰ Like Wanamaker, Meloon, and LeTourneau before him, Cathy expected God to make up the difference in lost sales—and then some—if he honored the Sabbath. Growing annual profits reinforced to Cathy that he was doing the right thing.²⁴¹

Cathy's business model had four principles: (1) he would not sell franchises but form joint ventures with independent "Operators"; (2) he would restrict new locations to major shopping malls; (3) he would trust that any necessary financing for growth would come from within; and (4) he would ensure the "chief emphasis" of the company would be on people.²⁴² Amid the poor American economy of the early 1980s, Chick-fil-A created a "Corporate Purpose": (1) to glorify God by being steward of all that is entrusted to us; and (2) to have a positive influence on all who come in contact with Chick-fil-A.²⁴³ Cathy envisioned the Operators as part of his business family and hosted annual seminars where they gathered for business training, spiritual advising, and singing, "We're one big happy family. That's the way at Chick-fil-A."²⁴⁴ In the mode of Wanamaker and LeTourneau, Cathy's seminars were also a celebration of capitalism. In the 1970s and 1980s, Operators who increased sales by 40% or more received a Lincoln Continental to use free of charge—if they repeated that feat a second consecutive year, Cathy gave the Operator the title to the car.²⁴⁵ Chick-fil-A continues to rigorously vet its Operators before designating a new franchise and typically does not allow individuals to own multiple stores.²⁴⁶ Although Chick-fil-A claims to not impose a religious test upon its Operators, they must specifically accept Cathy's vision that the company's principles are based ultimately upon Scripture and the Golden Rule.²⁴⁷

A 1987 *Fortune* magazine article written by Edward Baig described how "[f]locks of businessmen are born-again Christians" and how "[p]utting service to the Lord in the first place . . . doesn't stop them from

239. *Id.*

240. *Id.*

241. *See id.*; GREM, *supra* note 214, at 128–31.

242. CATHY, *supra* note 237, at 125.

243. *Id.* at 155–57.

244. *Id.*

245. *See id.* at 125–33, 155–57. Chick-fil-A expanded beyond mall locations in the 1990s. GREM, *supra* note 214, at 149–50.

246. *See Franchising*, CHICK-FIL-A, <https://www.chick-fil-a.com/franchising/franchise> [<https://perma.cc/6XZV-DUFA>].

247. CATHY, *supra* note 237, at 135–36.

racking up some glorious earnings.”²⁴⁸ Baig thought his article revealed something “surprising” to the readers of *Fortune*—that a “number of fervent Christians run corporations.”²⁴⁹ The article was accompanied by a photograph of Truett Cathy praying. These “fervent Christians” included Sanford McDonnell, chairperson and chief executive of McDonnell Douglas.²⁵⁰ McDonnell operated according to biblical principles and the ideas of devout Reformed Protestant Richard DeVos, who built Amway into a billion-dollar company but had no interest in preaching to his employees.²⁵¹ They also included more overt owners such as Arthur Owens, who required all the managers of his Sports & Health Club chain to embrace not only his company’s Christian philosophy but also a “born-again” identity.²⁵² Owens claimed that 2 Corinthians 6:14–18 forbid Christians from working with “unbelievers.”²⁵³ This belief led to a loss before the Minnesota Supreme Court in *McClure v. Sports & Health Club*, which stemmed from Owens’ open hostility toward homosexuality in his clubs.²⁵⁴ Overall, Baig’s larger thesis centered around the idea that a trend of born-again management seemed to be on the rise.²⁵⁵

The reality was that CBEs were neither increasing in number nor representative of a new trend. They did stand out more, as firms such as Chick-fil-A expanded amid a cultural context that was quite different from those of their predecessors.²⁵⁶ The Civil Rights Act of 1964 changed the rules of the marketplace, contributing to an explosion of the culture wars in America. Title VII of the Civil Rights Act and the establishment of the Equal Employment Opportunity Commission (EEOC) the following year meant employers could not practice religious discrimination.²⁵⁷ These doctrines ultimately complicated how proprietors approached the integration of their faith into their business enterprises.²⁵⁸ In 1967, the EEOC codified the standard that employers must accommodate religion in the workplace, which functionally established the principle of pluralism in

248. Edward C. Baig, *Profiting with Help from Above*, FORTUNE, Apr. 27, 1987, at 36.

249. *Id.*

250. *Id.*

251. *Id.* at 37.

252. State *ex rel.* McClure v. Sports & Health Club, 370 N.W.2d 844, 846–47 (Minn. 1985).

253. *Id.* at 854.

254. *Id.* at 844.

255. Specifically, Owens did not want to employ gay workers. Emma Green, *What Happened When Religious Freedom and Gay Rights Actually Clashed in Court*, THE ATLANTIC (Jan. 21, 2016), <https://www.theatlantic.com/politics/archive/2016/01/discrimination-lgbt-employees-religious-employers/424791/> [https://perma.cc/M3SL-8DVB]

256. See GREM, *supra* note 214, at 123–24, 127–28.

257. See Kent Greenawalt, *Title VII and Religious Liberty*, 33 LOY. U. CHI. L.J. 1 (2002).

258. See Robert J. Friedman, *Religious Discrimination in the Workplace: The Persistent Polarized Struggle*, 1 MIDWEST BLSA L.J. 27, 27–34 (2008).

for-profit enterprises.²⁵⁹ Court cases such as *Young v. Southwestern Savings & Loan Corporation* reinforced this principle. Young, an employee, was awarded damages after complaining that Southwestern held mandatory meetings that served as Christian devotional times. CBEs could still hold such meetings, but the Court held that attendance must be voluntary and independent of the hiring or promotion process.²⁶⁰ Subsequent high-profile cases, such as *Trans World Airlines, Inc. v. Hardison*, attempted to further define religious liberty in the workplace. The Court in *Trans World* held that an employer had to accommodate employees' religious practices so long as they did not cause "undue hardship."²⁶¹ How to properly balance the employer's right to religious self-expression and the employee's right to freedom from religious-based harassment in the workplace is a source of continuing debate.²⁶²

Darren Grem noted that Christian businesses such as Chick-fil-A increasingly stood out in the late-twentieth-century marketplace, becoming a "totem" for evangelicals.²⁶³ CBEs allowed evangelicals to "carve out places and spaces" where they could retain influence.²⁶⁴ Chick-fil-A demonstrated that starting or running a Christian business could be a way to "further the [evangelical] movement."²⁶⁵ This position put Chick-fil-A on the "front lines" of the culture wars, particularly the Cathy family's philanthropy to conservative Christian schools and ministries.²⁶⁶ Actions that were celebrated in the era of LeTourneau were now cause for scrutiny and boycotts by the 2000s. These boycotts continue today, as Chick-fil-A expands further into the northern United States, airports, and overseas. The Cathy family's giving to Christian groups that maintain a traditional view of marriage has been a main topic of contempt.²⁶⁷ In 2013,

259. GREM, *supra* note 214, at 124–26.

260. *Young v. Sw. Sav. & Loan Ass'n*, 509 F.2d 140, 144–45 (5th Cir. 1975).

261. *Trans World Airlines, Inc. v. Hardison*, 432 U.S. 63, 73–74 (1977); *see also* Greenawalt, *supra* note 257, at 19–20; Friedman, *supra* note 258, at 36–37. After 1972, small businesses, or those with under fifteen employees were not subject to these regulations. GREM, *supra* note 214, at 126–27, 144–45.

262. *See, e.g.*, Greenawalt, *supra* note 257, at 36–55; Friedman, *supra* note 258, at 35–41.

263. GREM, *supra* note 214, at 122.

264. *Id.* at 128.

265. *Id.* at 132.

266. *Id.* at 151–54.

267. *See* Susan Selasky & Robert Allen, *Chick-fil-A Faces Bans, Protests Across U.S., Citing LGBTQ Issues*, DETROIT FREE PRESS (Apr. 12, 2019), <https://www.freep.com/story/money/business/michigan/2019/04/12/chick-fil-faces-bans-protests-across-u-s-citing-lgbtq-issues/3447396002/> [<https://perma.cc/BHS8-6EHB>]; Associated Press, *Protest at Chick-fil-A Opening in Canada Over LGBTQ Issues*, CHATTANOOGA TIMES FREE PRESS (Sept. 10, 2019), <https://www.timesfreepress.com/news/breakingnews/story/2019/sep/10/protest-chick-fil-a/503215/> [<https://perma.cc/2FWF-L6K8>]; Derrick Bryson Taylor, *First Chick-fil-A in U.K. to Close in 6 Months Amid Protests*, N.Y. TIMES (Oct. 19, 2019), <https://www.nytimes.com/2019/10/19/world/europe/chik-fil-a-uk-lgbtg.html> [<https://perma.cc/2CEF-V3GM>].

Truett's son Dan (current chairperson and CEO of Chick-fil-A) made peace with one of the largest LGBTQ groups boycotting Chick-fil-A, Campus Pride.²⁶⁸ Nevertheless, the company's reputation for serving "Jesus Chicken" continues to alienate segments of progressive America who refuse to eat its food.²⁶⁹ Despite all the controversy, Chick-fil-A annually occupies the top spot for fast food restaurants on the American Customer Satisfaction Index (ACSI) report, suggesting that the company's emphasis on quality and customer service outweigh cultural criticism over its religiosity.²⁷⁰ It is also possible this religiosity reinforces the customer experience for many who eat at Chick-fil-A restaurants.

Given that chains such as Chick-fil-A and Hobby Lobby are simply the latest iteration of a long history of CBEs, it is unsurprising that these businesses would claim their religious character and principles exempt them from certain federal laws, such as the Affordable Care Act requirement that employers pay for employee health plans that include birth control coverage.²⁷¹ Firms such as Hobby Lobby and Chick-fil-A stand out today because the cultural privilege enjoyed by previous eras of CBEs has evaporated in some regions of the United States. John Wanamaker did not have to convince anyone that incorporating Christian principles into his business was an admirable thing, in contrast with the Green and Cathy families today. Wanamaker's detractors objected less to his Christian moralizing than his perceived inauthenticity—that his Christianity was merely a façade for a conventional retail huckster. Wanamaker operated within a broadly Protestant culture that was secularizing and growing increasingly pluralistic but still accepting of the notion that building moral businesses upon Christian principles was generally a good thing. This historical observation contrasts with twenty-first century municipalities who try to prohibit new Chick-fil-A franchises because of the company's reputation for upholding traditional Christian ethics.

The changing form of corporations in the latter half of the twentieth century is another important context. Chick-fil-A and Hobby Lobby are privately held companies. This means that the Cathy and Green families have greater control in shaping the culture of their companies than publicly traded companies that answer to shareholders and non-religious board

268. Shane Windmeyer, *Dan and Me: My Coming Out as a Friend of Dan Cathy and Chick-fil-A*, HUFFPOST (Dec. 6, 2017), https://www.huffpost.com/entry/dan-cathy-chick-fil-a_b_2564379 [<https://perma.cc/F5HU-NHUS>].

269. *See id.*

270. *Limited-Service Restaurants*, AM. CUSTOMER SATISFACTION INDEX, https://www.theacsi.org/index.php?option=com_content&view=article&id=149&catid=&Itemid=214&i=Limited-Service+Restaurants [<https://perma.cc/NTP9-6MSB>].

271. *See, e.g., Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 703–04 (2014).

members. This distinction is at the core of the *Burwell* ruling that closely held CBEs more clearly represent the ethos of their owners.²⁷² In contrast, publicly traded companies may have thousands of shareholders, complicating the argument that such companies can effectively demonstrate a religious character deserving of constitutional protection.

CONCLUSION

In contrast to Justice Ginsburg's contention in *Burwell* that for-profit entities have historically not existed to perpetuate religious values, this Article argues that businesses have possessed religious identities since Europeans came to North America: the joint-stock corporations of the seventeenth century, such as the Virginia Company, had a religious mandate; seventeenth-century Puritan merchants wrestled with the morality of their practices; eighteenth-century Moravians created businesses in the Atlantic world to propagate the gospel; Christian communal groups, such as the Harmony Society, set up highly successful industrial enterprises in the early nineteenth century; Sabbatarian businesses (those only open for six days of the week) of the 1820s and 1830s reflected an evangelical impulse to reform the expanding American marketplace; and businessmen flocked to revivals in 1858, promising to bring their newfound salvation into their place of business. In the late nineteenth century, business and evangelism collided in the persons of D. L. Moody and John Wanamaker, laying the groundwork for the archetype of "God's Businessman," personified by Walt Meloon and R.G. LeTourneau, who built successful Christian manufacturing firms that celebrated free enterprise as a godly endeavor, something enterprises such as Wal-Mart helped reinforce in the late twentieth century.

Without question, the forms, purposes, and structures of these firms have changed over time. More importantly for *Burwell*, changes in American culture, combined with Marsden's "withdrawal thesis," have altered the CBEs' public acceptance. The era of the first CBEs, such as seventeenth-century joint-stock corporations and Puritan merchants, transacted at a time when the lines between religion, government, and marketplace were blurry. Faith was more integrated in the daily life of colonial America than in the nineteenth or twentieth centuries. Consequently, CBEs did not stand out in contrast to their surroundings. In the nineteenth century, CBEs sought to shape the morality of capitalism. In the process, some did attract controversy (such as Sabbatarian firms), but these firms operated within an informal Protestant establishment. Although George Marsden's narrative of a cultural withdrawal by

272. *Id.* at 733.

fundamentalists in the 1920s has fed an impression that conservative Christians disappeared from America's cultural life until the 1980s, the CBEs of the mid-twentieth century undermine this thesis. Instead, CBEs functioned as vehicles for their proprietors to stay engaged in shaping the American government and society. For example, many of these companies waged an ideological and political war against socialism and communism. However, by the end of the twentieth century, CBEs such as Chick-fil-A and Hobby Lobby stood in contrast with an increasingly pluralistic, secular America. As more and more retailers and restaurants opened on Sundays, the Sabbatarian practices of Chick-fil-A and Hobby Lobby seemed at best quaint and at worst strange. Although these firms' newfound notoriety has caused some, such as Justice Ginsburg, to assert that ascribing religious character to for-profit enterprises represented something new under the sun, the 400-year history of Christian Business Enterprise decidedly suggests otherwise.