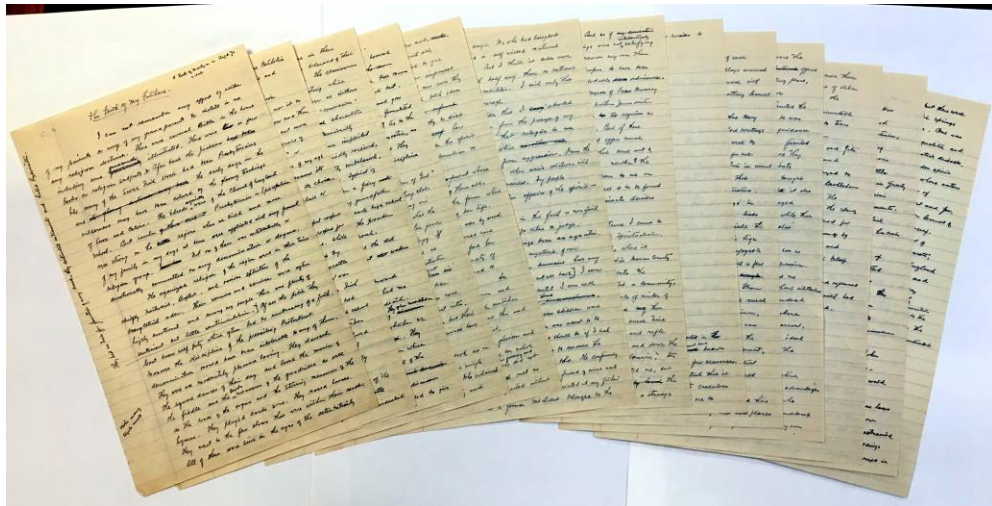


# Robert H. Jackson's “The Faith of My Fathers” (circa 1953)

John Q. Barrett\*

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When United States Supreme Court Justice Robert H. Jackson died in 1954, he left behind thirteen handwritten pages that were a draft essay. He titled it “The Faith of My Fathers.”



I am pleased to report that this Justice Jackson essay, unknown to the public for more than sixty-five years, was published last week in the *University of Pennsylvania Law Review* (the leading law journal in Jackson’s 1892 state of birth)—[click here](#) to read it.<sup>1</sup> (And [click here](#) for

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For an archive of selected Jackson List posts, many of which include document images or photographs, visit <http://thejacksonlist.com>. This essay is posted there as a PDF file with “live” hyperlinks.

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<sup>1</sup> See Robert H. Jackson, *The Faith of My Fathers*, 168 UNIV. OF PENNSYLVANIA L. REV. 1 (2019), available online at [www.pennlawreview.com/print/index.php?id=661](http://www.pennlawreview.com/print/index.php?id=661).

Supreme Court reporter Tony Mauro's *National Law Journal* story (paywall-protected) about this Jackson publication.<sup>2</sup>)

The essay is Justice Jackson on religion. He describes his own religious beliefs and practices and those of his ancestors, who were 19<sup>th</sup> and early 20<sup>th</sup> century American farmers in western Pennsylvania and residents of small villages in the adjacent area of western New York State. He also recounts some of the history of Spiritualist movements in their region.

Jackson explains that he and his people were shaped by the religious currents and diversities that surrounded them. They believed that the proper way to live is to give people space and to tolerate what they are and what they choose to believe and to practice in their own spaces, so long as they do not intrude unduly on others' spaces.

This "new" Jackson essay fits with other autobiographical writings that he worked on in the early 1950s. By then, he had lived what he regarded as a full span of sixty years. Perhaps he also was feeling his failing health. He continued to do his Supreme Court judging and opinion-writing, actively and powerfully. He also kept very busy with extrajudicial writings and speeches on legal topics, principally his work following World War II as chief prosecutor at Nuremberg of the leading Nazi war criminals and the issues, accomplishments, and legacies of that undertaking. And in some special, more personal projects, he remembered vividly and wrote beautifully about defining, treasured people, places, and experiences in his past.

In the realm of religion, Jackson as a U.S. Supreme Court justice wrote many notable opinions addressing how the U.S. Constitution limits and empowers government. In *West Virginia State Board of Education v. Barnette* (1943),<sup>3</sup> for example, he wrote the Court's opinion holding that the Constitution prohibits public officials from compelling Jehovah's Witness schoolchildren to salute and pledge allegiance to the American flag.

For Justice Jackson, the U.S. Constitution as a limit on government power to compel professions of faith was of a piece with the Constitution

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<sup>2</sup> See Tony Mauro, *A Revealing Look at Justice Robert Jackson's Religious Views*, NAT'L L.J., posted Jan. 21, 2020, [www.law.com/nationallawjournal/2020/01/21/a-revealing-look-at-justice-robert-jacksons-religious-views/?cmp=share\\_twitter](http://www.law.com/nationallawjournal/2020/01/21/a-revealing-look-at-justice-robert-jacksons-religious-views/?cmp=share_twitter).

<sup>3</sup> 319 U.S. 614 (1943), available online at [www.law.cornell.edu/supremecourt/text/319/624#writing-USSC\\_CR\\_0319\\_0624\\_ZO](http://www.law.cornell.edu/supremecourt/text/319/624#writing-USSC_CR_0319_0624_ZO).

also empowering government to prohibit religious proselytizers from harassing others, especially in their homes—under the Constitution as Jackson understood it, government may regulate religious actors when, but only when, their conduct imposes unduly upon the freedom and peace of others. Jackson also believed that the Constitution bars government from ranking religion itself, from ranking any particular religion as more or less correct, or from evaluating the sincerity of professed adherents of this or that belief system. In Jackson's view, to believe and practice any religion or to believe in none at all is, short of the point where one imposes his or her belief on another, for the individual to determine, separate from government involvement.

Jackson's "Faith of My Fathers" reveals that his personal views on religion and his own religious practices very much fit with his judicial interpretations of the U.S. Constitution. He did not really believe in God or practice religion, but he was tolerant of others who did and how they chose to do so. He respected and deferred to the sincerity of people whose belief systems were not his. In both his living and his constitutional judging, Jackson gave religion its private space. He objected, however, and he read the Constitution as the legal basis on which to object, when government sought to bring religion into public spaces, because they belong equally to people whose beliefs range from religious belief to non-belief.

Justice Jackson's "The Faith of My Fathers" essay is significant because it comes from him, from his renowned pen and his interesting, enduringly significant mind—it is a late-life, deeply personal piece of Jackson.

Jackson's "The Faith of My Fathers" also has relevance to us, and indeed it might assist us, as we think about, practice, interact with, steer clear of, etc., religion, which is a continuing matter of great import to people, in constitutional law, in public debates, and in legal cases.

The Faith of My Fathers.

\* Part of martyr in sketch 7<sup>o</sup>  
is state

I can not remember any effort by either of my parents or any of my grand parents to instill in me any religious doctrine. There were several Bibles in the house including some ~~grossly~~ <sup>grossly</sup> illustrated. There were ~~two~~ a few books on religious subjects. \* A far back the Jacksons had been like many of the Scotch Irish stock had been Presbyterians and ~~its gloomy doctrines may have~~ the early days in the wilderness may have been colored by the gloomy teachings of Knox and Calvin. The ~~Edros~~ <sup>originally</sup> were of the Church of England school. But neither ~~of these were~~ Presbyterians or Episcopalian were strong in the ~~little~~ regions where we lived and none of my family in my days at home were affiliated with any formal religion group. ~~None~~ Not one of them was intellectually or emotionally committed to any denomination or dogma.

She had no time for questions of any kind, they disturbed extraneous and later hypocrite.

The organized religion of the region were in three times chiefly Methodist, Baptist, and various splinters of the Evangelical order. Their sermons and services were often highly emotional and among my people there was plenty of sentiment but little sentimentalism. } Of all the people they least knew self pity which often led to embracing of a faith. Moreover the discipline of the prevailing Protestant denomination would have been intolerable to any of them. They were all moderately pleasure loving. They danced the square dances of their day and loved the music of the fiddle and the <sup>birds</sup> measures of the quadrille as well as the tones of the organ and the stirring measures of the hymns. They played cards some. They raced horses. They went to the few shows that were within their reach. All of these were sins in the eyes of the ostentatiously

Vivid among simple amts