

Partial Report of Hearing on Johnston Sunday Bill, S. 404

Containing the speeches of Professors
W. W. PRESCOTT and A. T. JONES
With Appendix by W. A. COLCORD

Published by
The Religious Liberty Association
WASHINGTON, D. C.

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Johnston Sunday Bill*

Argument by Prof. W. W. Prescott

MR. CHAIRMAN, GENTLEMEN OF THE COMMITTEE: It seems proper that we should have a clear understanding of the real point at issue between us in speaking for and against this measure. Those who are opposed to this bill are not opposed to any man having one day of rest whenever he wishes to take it. They are not in favor of slavery either for working men or for those who are recognized as bondmen. The real question at issue is this: Is it incumbent upon the legislative body to compel men to rest? I submit that as the real question at issue.

We take no issue with what these gentlemen say as to the desirability of rest; we take no issue with them on the question from a physiological standpoint. It is just as important that men should sleep regularly as that they should rest a certain portion of time. And with the same logic they use in asking you to pass a bill to compel men to rest, they can come next time and ask you to pass a bill compelling men to sleep. They rest upon the same basis, gentlemen.

Class Legislation

It is important for us to consider principles, and not merely questions of expediency. It is not the question of whether certain classes of men ask for legislation. It is not proper to come in here and ask you to pass a kind of legislation that will favor certain classes against certain other classes. That ques-

ion was well argued out in the Senate when this matter was before the Senate; and one senator, a leader of the Senate, said, "I am not disposed to allow any class to come and ask for a law that interferes with some man who wants to pursue his calling, simply because some other man does not want to pursue it."

A statement has been presented before you here this morning to the effect that this is a bill to put a stop to competition. I ask you whether legislation designed to put a stop to competition is proper legislation.

This bill has been designated as a bill for public health. I ask you whether it is any more a bill for the public health than a bill that would compel people to eat at certain hours, or to sleep at certain hours, or a bill that would require them to ventilate their rooms at night in a certain way. When you go onto that ground, you pass from the ground of proper legislation. That is a matter of personal right and choice, and the power has not been conferred on any legislative body to make people rest, or to eat, or to sleep at certain hours.

The state has no right to enforce either rest or labor except as a punishment for crime. The state can not properly compel the individual either to rest or to work. That is a matter of individual right, with which the legislature ought not to interfere.

History of the Bill

Now may I call attention, gentlemen, to the character of this bill, to the history of the bill, because the history of this bill will, I think, throw light

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upon the real purpose and nature of the bill?

The first appearance of this bill, or the beginning of it, was on Jan. 14, 1908, when the senator from Alabama introduced a bill "requiring certain places of business in the district of Columbia to be closed on Sunday." On April 7, 1908, the same senator introduced S. 6535, a bill "for the proper observance of Sunday as a day of rest in the District of Columbia." This bill had no exemption clause whatever. Later the senator made a report on this bill, and he substituted for his first bill, the bill requiring certain places of business to be closed on Sunday, the second bill requiring a cessation from work on Sunday; but he introduced an exemption clause in the third section, reading thus:—

"Provided, That persons who are members of a religious society, who observe as a Sabbath any other day in the week than Sunday, shall not be liable to the penalties prescribed in this Act if they observe as a Sabbath one day in each seven, as herein provided."

In that form it came to the House, and died in the committee. At the extra sessions of the present Congress, the same senator, on March 22, 1909, introduced substantially the same bill. This time the exemption clause was attached to section one; but it still read, "shall not be liable to the penalties prescribed in this Act." Under discussion in the Senate, this bill was amended. This exemption was changed to read, "That persons who observe as a day of rest any other day in the week than Sunday shall not be held to have violated the provisions of this section," not Act.

The Next Step

Now, gentlemen, following the history of this bill, you will see that the first time this Sunday bill was introduced, there was no exemption clause whatever; then it was amended, and the exemption clause was attached to the third section, applying to the whole Act; it was further amended, and the exemption applied to the first section only. The next step, gentlemen, and only one step, is—out of the bill entirely. It has passed from the third to the first section; the next step is to get it out entirely.

I am not saying that a Sunday bill with a broad exemption clause is a proper bill. I am simply saying this: The history of this bill shows that those who handle it assume the right to determine who shall rest and who shall not rest, and how they shall rest, and to prescribe Sunday, first, as a Sabbath, then changing it to a day of rest, but limiting it to a day of rest, but limiting the exemption only to a portion. It shows this: The right in this bill is assumed to control men as to how they shall spend a certain day, and to compel them to spend it according to a certain plan.

Only Upon Religious Grounds

I maintain, gentlemen, that it is impossible to give preference to one day in the week over any other in the matter of legislation except upon religious grounds. I maintain that it is impossible to prefer a day, one day in seven, except on religious grounds, and I wish to call your attention to a citation in that matter. It is not the view of one who might be opposed to a certain bill, and it is not

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the opinion of a layman, but the view of Chief Justice Terry, of the California State Court. I will read an extract from his statement. Of the position that the Sunday law is a necessity for the benefit of the citizen's health, and the restoration of his powers, he says:—

"This argument is founded on the assumption that mankind are in the habit of working too much, and thereby entailing evil on society, and that without compulsion they will not seek the necessary repose which their exhausted natures demand. This is to us a new theory, and is contradicted by the history of the past and the observation of the present. We have heard, in all ages, of declamations and reproach against the vice of idleness, but we have yet to learn that there has ever been any general complaint of any intemperate, vicious, unhealthy, or morbid industry. On the contrary, we know that mankind seek cessation from toil from the natural influence of self-preservation, in the same manner and as certainly as they seek slumber, relief from pain, or food to appease their hunger. Again, the amount of rest which would be required by one half of society may be widely disproportionate to that required by the littler. It is a matter of which each individual till, he permitted

to judge for himself. As well might the legislature fix the and hours for work and enforce their observance by an unbending rule which shall be visited alike upon the weak and the strong. . . . The truth is, however much it may be disguised, that this one day of rest is purely a religious idea. Derived from the sabbatical institutions of the ancient Hebrews, it has been

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adopted into the creeds of the succeeding religious sects, and, whether it be the Friday of the Mohammedan, the Saturday of the Israelite, or the Sunday of the Christian, it is alike fixed in the affection of its followers beyond the power of eradication, and in most of the States of our confederacy the aid of the law to enforce its observance has been given under the pretense of a civil, municipal, or police regulation."

REPRESENTATIVE KAHN: What is the number of that California Report?

W. W. PRESCOTT: Newman, 9th Cal., 502, if I remember correctly.

The title of the bill, gentlemen, indicates the character of the bill. The title says it is "a bill for the proper observance of Sunday as a day of rest in the District of Columbia." What is meant by the proper observance of the day? Do we have any laws relating to the proper observance of any non-religious days? The very title of this bill, which calls for the proper observance of Sunday, shows at once the religious character of the bill, and indicates that it is designed to give preference to one day over any other, and that day is chosen for religious reasons.

"Innocent Beginnings"

Now, in the Senate discussion of this bill, gentlemen, there were some rather important statements made, that I have not time to read. But one senator, speaking of the innocent beginnings of such a law, said that out of this grows some very serious things, and he traced it from such a bill as this up to compulsory church attendance; and he said these things have "innocent begin-

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nings." Now I claim this is simply the innocent beginning that means much more in the future. This tends to decide a religious controversy. It is apparent to you gentlemen, at once, when this matter comes up, that there are parties here before you who observe different days of the week. But let me say to you, gentlemen, that I would not come in here to ask you for legislation in favor of the seventh day of the week. There are sixty to seventy thousand persons in this country who demonstrate every week in the year that it is perfectly possible for citizens to respect and observe the day of their choice without asking for any legislation in any way pertaining to their day of rest.

Not a Mere Theory

We are charged with working on theory. This is no theory. I have had an experience of nearly half a century, and I can testify, both in business and in

other lines of operation, that it is possible for a man to close his business on the day that he conscientiously believes to be the Sabbath, because he chooses to do so. But to ask for legislation to close certain business to prevent some one else from getting my business, is a queer sort of legislation.

For over half a century there has been this body of people Seventh-day Adventists. They do not work on the seventh day of the week. If by reason of that they miss their employment, they seek it elsewhere; but they put conscience and the authority of God's Word above the question of whether or not they get a satisfactory place to work.

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And they observe the day without any legislation. This is not theory, but a fact.

We are not speaking purely upon theory, and we are not asking—in fact, we are opposed to—legislation that would favor *any* day of the week, for the reason, as I have stated, that any legislation favoring any day of the week as above any other day of the week must rest upon religious ground, however much you may disguise it.

How Public Worship Should be Protected

REPRESENTATIVE CAMPBELL: Suppose that within three rods of any church there was being reared a building ten stories high, and there were one hundred workmen on it. Suppose that while church was going on next door, those one hundred workmen were using structural material in the work of constructing that building. Would you be willing to see that going on?

W. W. PRESCOTT: I would say that the same law which protects public worship should protect it every day of the week that it does not require any special legislation for any day or time. Such legislation as protects public worship should protect it every day of the week. That would be my reply.

REPRESENTATIVE KAHN: Are you a Seventh-day Adventist?

W. W. PRESCOTT: Yes, sir; I am.

REPRESENTATIVE KAHN: Suppose the Seventh-day Adventists go to church on Saturday. Suppose you were in your church on Saturday, and there was a seven-story building going up near where you were holding service. Would you ask for legislation to prevent that?

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W. W. PRESCOTT: We have had that sort of experience since I can remember, and have met with it in all parts of the world, and we never, in any instance, have gone to legislatures or courts to ask for protection against disturbance on the seventh day of the week. We take what comes to us, simply. We make the best of it, and we stir up no further trouble by asking for special privileges.

Argument by Prof. A. T. Jones

MR. CHAIRMAN: As was announced, I am from Michigan. That, of course, puts me at once outside the District, and among those who were informed by one

of the speakers on the opposite side that this legislation as to what is done inside the District is "none of our business." But I submit that whatsoever the Congress of the United States does is the business of every citizen of the United States, whether done in the District of Columbia or anywhere else. The Constitution of the United States says that I, having been born in the United States, and subject to its jurisdiction, am a citizen of the United States. Therefore that is why I am here; because this legislation concerns not only me but every other citizen of the United States outside the District of Columbia.

If the people of the District of Columbia were self-governing people, and had this to accomplish themselves, as the people of a State, then it would be none of my business, who do not belong in the District of Columbia; but when

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the Congress of the United States does it, then it is the business of every citizen of the United States, because the Congress of the United States has instruction from the people of the United States setting limitations beyond which the Congress can not go in legislation. And that is why I am here. Therefore I shall not speak on any of the local affairs of the District of Columbia, but solely upon the principle involved in this legislation.

Character of Sunday Legislation

It has been mentioned here, I mention it further, and shall dwell upon it perhaps more, and that is, that it is religious legislation, and can not be made anything else. For fifteen hundred and ninety-six years Sunday legislation has been religious legislation, and nothing else, with no pretense of anything else; and now, I submit to this Committee, that when the thing has for 1,596 years been nothing hut religious legislation, it can not be changed all of a sudden by somebody saying that it is something else.

Some history of the legislation proposed in this bill has been referred to, carrying it back to 1904. I think the real history of it goes back twenty-two years. Twenty-one years ago last December there was a public hearing before the Senate Committee on Education and Labor. I was there then; and the Sunday legislation then was the First of the modern stripe. The Sunday legislation then was not only specifically religious, but specifically "Christian." But from then until now, as it has been followed up, it has been stripped of some of its religious phraseology, but not all.

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This bill has been stripped as far as they possibly could to leave it in any respect at all what they wanted. But yet they did not get it all out, although they have done their best.

Revolution Backwards

The bill reads: "That it shall be unlawful for any person or corporation in the District of Columbia on the first day of the week, commonly called Sunday, to labor at any trade or *secular* calling."

Secular calling! The antonym of secular is religious. The Act is "for the proper observance of Sunday." Sunday is religions. So then, since it is religious, it is revolutionary. Revolution, in itself, is not wrong, because this nation was established by revolution: but this is revolution in the wrong way: it is backward, and that kind of revolution is doubly wrong.

But the Constitution of the United States specifically establishes religious right, in that—note it—"Congress shall make no . . . law prohibiting the free exercise of religion;" and any legislation respecting Sunday observance does prohibit the free exercise of religion; it even prohibits the free exercise of those who observe Sunday, and whom the legislation is supposed to favor.

How Religious Liberty was Established in the United States

Now the contest that established that right in the United States was a good deal longer than the contest that established the Constitution of the United States. The contest for religious liberty in the United States lasted from 1776 to 1789; and it was fought directly on this one issue; and Madison and Jeffer-

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son, and Washington, and their compatriots established it thus for the very purpose of prohibiting Congress or the government of the United States from ever touching in any way religion, and specifically the Christian religion above all others in the world. And they did it, as Madison said, because they saw all the consequences in the principle, and they escaped the consequences by denying the principle.

And that is why I, a citizen of the United States, but not of the District of Columbia, am here to-day, to speak upon this proposed action of the Congress of the United States.

All the consequences of all the religious legislation that has ever been in the world, all the consequences of a union of church and state, are in this legislation, in this bill as it stands to-day; and I, with a whole lot of other people of the United States outside the District of Columbia, see the consequences in the principle, and we, as our fathers who made this nation, propose to escape the consequences by denying and repudiating the principle.

The Flag and Patriotism

There has been mentioned here the display of these little flags that are conspicuous, suggesting that those who favor this legislation are the patriotic ones. But no more unpatriotic thing could ever be done in the United States than to favor Sunday legislation.

Do Sunday Laws Preserve a Nation?

It is claimed that we must have this law to save the nation, to preserve the gentlemen of the Committee, one

single fact annihilates that whole theory: If Sunday legislation were for the salvation of the state or the preservation of the nation, the Roman empire should be standing to-day intact; for no people, no nation, ever had more Sunday legislation, or more stringent Sunday laws outside of New England in the truest "blue" Puritan days and laws. Therefore when Rome had the most Sunday legislation ever in the world, and the most stringent and the most thoroughly enforced Sunday legislation, if there be any virtue at all Rome ought to be standing to-day. But all that Sunday legislation only helped the more to sink the Roman state forever; and so it is ever with this sort of legislation. "There is no relish of salvation in it."

What Is the Equivalent?

But now for the sake of the argument of those who favor this, I am going to accept, for the moment, their plea that it is altogether economic, nothing religious about it, and they do not intend anything religious about it, and see where we are forced, not only by the principle, but by their own advocacy; and this shall be by their own words.

Upon Anglo-Saxon principles of government, and unquestionably the perfect governmental principle of justice, no citizen can be required to surrender the personal exercise of any of his natural rights without an equivalent. By this principle in this government of the people, even in the case of war, when "the people" would be fighting in plain self-defense, no man is ever required to leave his home and his personal affairs of natural right without receiving a defi-

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nite and regular recompense. By this principle under the exercise of the governmental right of eminent domain, the state can not take the property of any citizen without the recompense of a fair valuation.

By this bill it is proposed that through enforced rest the government shall deprive each citizen of one seventh of his time and effort. The right to acquire and to enjoy property, in itself, includes the right to the means and to the use of the means to acquire property. Time and effort, therefore, are property. By this bill, and with no other process of law, the government through enforced rest one whole day in seven, deprives each citizen of one seventh of his time and effort. and thus, in effect, of one seventh of his property.

And what is the equivalent?— just nothing at all—or worse. For a day of enforced rest is nothing but a day of enforced idleness. What this law will do, therefore, is by governmental force to deprive every citizen for one whole day in each week, of his natural right of honest occupation; and the only shadow of equivalent given in return for this is the consequent enforced idleness.

But idleness is no equivalent at all for the time and effort of honest occupation. General idleness *voluntary*, is only mischievous; general idleness *enforced*, is far worse. Industry, industry, honest occupation, not idleness, is the life of the state. And to put upon idleness the enormous premium of making honest industry a crime to be punished by fine and imprisonment, is nothing less than governmentally suicidal.

Religion a Necessity

The originators and promoters of this legislation know this. they know that this proposition is true, that enforced rest is enforced idleness, and therefore is mischievous. Accordingly, on that side, it has been said, and it stands in print as accepted doctrine with them, that "taking *religion* out of the day takes the *rest* out." This is profoundly true. And that truth fixes it that the obligations and the sanctions of a day of rest can come only from God, the Fountain of religion; for he, and only he, can supply the religion, which is the only possible equivalent of a required day of rest.

From their true premise that "taking religion out of the day takes the rest out," that religion is the only possible equivalent of required rest, it follows inevitably that from some source there must be supplied the religion which shall make effective the rest which this legislation is to enforce.

But it being enforced rest, this essential religion can not possibly come from God, for the government of God is not of force. Neither can it come from the state, for the state is not religious, and can not supply what it has not. But, lo! here is the church, the church combine, that originated this legislation, and that for more than twenty years has been diligently pressing it upon Congress. She is fully ready to supply exactly the religion that is fitting to this enforced rest.

The situation, then, is this: Taking religion out of the rest-day takes the rest out of the religious day. The church combine demands that Congress

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shall enforce the rest, and she will supply the religion that is essential to the rest. And they will give you no rest until they do, you may be sure of that.

The Inevitable Result

Through operation of law enforcing a day of rest the church crowds herself upon the state as the only means of supplying the religion that is essential to rest. Thus there will be forced upon the state a union of church and state as the inevitable consequence of this legislation.

The legislation, then, in its true intent and purpose from the beginning, revolutionizes backward the noble work of our fathers in establishing religious liberty here as a constitutional right.

Upon their professed claim that it is merely and only to secure a rest-day as a civic and economic measure, the legislation is economically and governmentally suicidal.

Upon their own known and published doctrine of a rest-day, the legislation inevitably forces a union of church and state, and *that* can only sink the state.

And to the whole nation the result can only be that the church of the United States will force the masses to accept the kind of religion she has to offer, a religion of force, instead of all the people accepting the religion of their own choice, as our fathers, by the Constitution, fixed matters here, as they hoped, forever.

APPENDIX

How Sunday Laws Have Treated Christian Men

MANY fail to see how Sunday laws can bring about a union of church and state, or result in persecution. Those who think that they will, have been told by members of Congress that they are "unnecessarily alarmed," and "frightened at shadows."

This doubtless reflects the views of many, both in and out of Congress.

Many years ago we predicted and published to the world that the movement in this country to unite church and state and enforce Sunday observance by law would, if successful, result in persecution and oppression to conscientious observers of the seventh day, The National Reformers, who were behind this movement, saw no danger in it, and assured us that no harm could come from Sunday laws and their enforcement. They said:—

From the beginning of the National Reform movement, they [Seventh-day Adventists] have regarded it as the first step toward the persecution which they, as observers of the seventh day, will endure when our Sabbath laws are revived and enforced. One can but smile at their apprehension of the success of a movement which would not harm a hair of their heads; but their fears were sincere enough, for all that.—*Christian Statesman, March, 1874.*

The events of only a few years later, however, amply demonstrated that our fears were not only sincere but well-grounded. In eleven years, from 1885 to 1896, under the revival and enforcement of Sunday laws which then took place, over one hundred conscientious, God-fearing Seventh-day Adventists in the United States, besides some thirty in foreign countries, were prosecuted for doing work on Sunday, resulting in fines and amounting to \$2,269.69, and imprisonments totaling 1,438 days, and 455 days served in the chain-gang.

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Since this many similar persecutions have taken place under the Sunday laws of this and foreign countries.

In the face of these facts we think we have something more than "shadows" to be frightened at, and grounds for disbelieving the assurance of those who tell us that the success of the Sunday-law movement will not harm "a hair of our heads." Prosecutions, fines, imprisonments, and chain-gangs can hardly be called "shadows."

We know the spirit that is behind this movement, and that will be manifested as the movement develops. Its professions are lamb-like, mild, and apparently Christian, but when it speaks, it will reveal the spirit that has characterized all religious persecutions. (See Rev. 13:11-18.)

If the men in Congress now having to do with these measures knew in what they were finally do result, they would doubtless let them alone.

Eighty years ago Congress saw some of the evils involved in Sunday legislation. The famous "Sunday Mail Reports" adopted by Congress in 1829 to 1830, sounded a clear note of warning.

The sound logic and the unanswerable arguments against Sunday legislation set forth in these reports are no less potent nor pertinent now than they were then.

The evils resulting from such legislation are not alone confined to the wrong that may be done the oppressed. The oppressor wrongs himself. President Fairchild has well said: "Injustice and oppression are not made tolerable by being in strict accordance with the law. Nothing is surer, in the end, than the reaction of such wrong to break down the most perfectly constituted government."

Sunday legislation can result only in evil.

W. A. COLCORD.

Cor. Secretary Religious Liberty Association.

