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“WE ARE TEACHING THE WORLD”

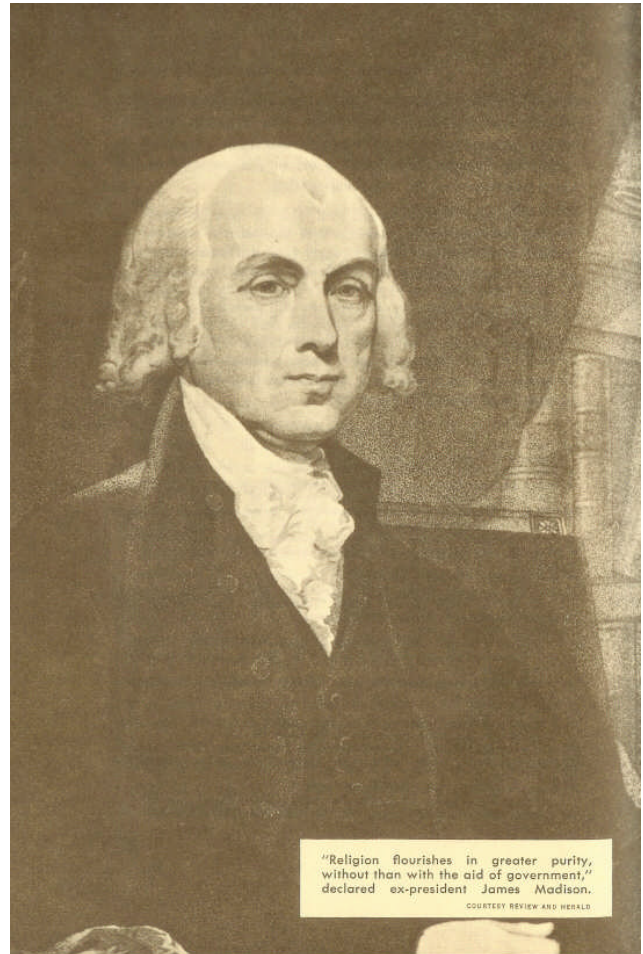
Writing to Edward Livingston from his Montpelier home ex-president James Madison in the summer of 1822, declared: “We are teaching the world the great truth that Governments do better without kings and nobles than with them. The merit will be doubled by the other lesson that Religion flourishes in greater purity, without than with the aid of government.”

Madison regretted that in some states disestablishment still had not been achieved. He felt that any alliance or coalition between government and religion imperiled the success of both. He argued that “religion and Government will both exist in greater purity, the less they are mixed together,” and he supported his theory by citing the example of Virginia, “where it is impossible to deny that religion prevails with more zeal and a more exemplary priesthood than it ever did when established and patronized by public authority.”

From its inception the Federal Government had no established religion or church tradition. Free of establishments, the new republic was consequently free of Sunday laws on a national level. James Madison liked it that way.

[34] Madison approved of executive proclamations of fasts and festivals, providing they were merely “recommendatory,” not obligatory. Government has “a right to *appoint* particular days for religious worship throughout the state, without any penal sanction *enforcing* the worship.”¹

Madison's attitude was based upon commitment to individual property rights as well as independence of church and state. Among property rights, Madison included “time.”



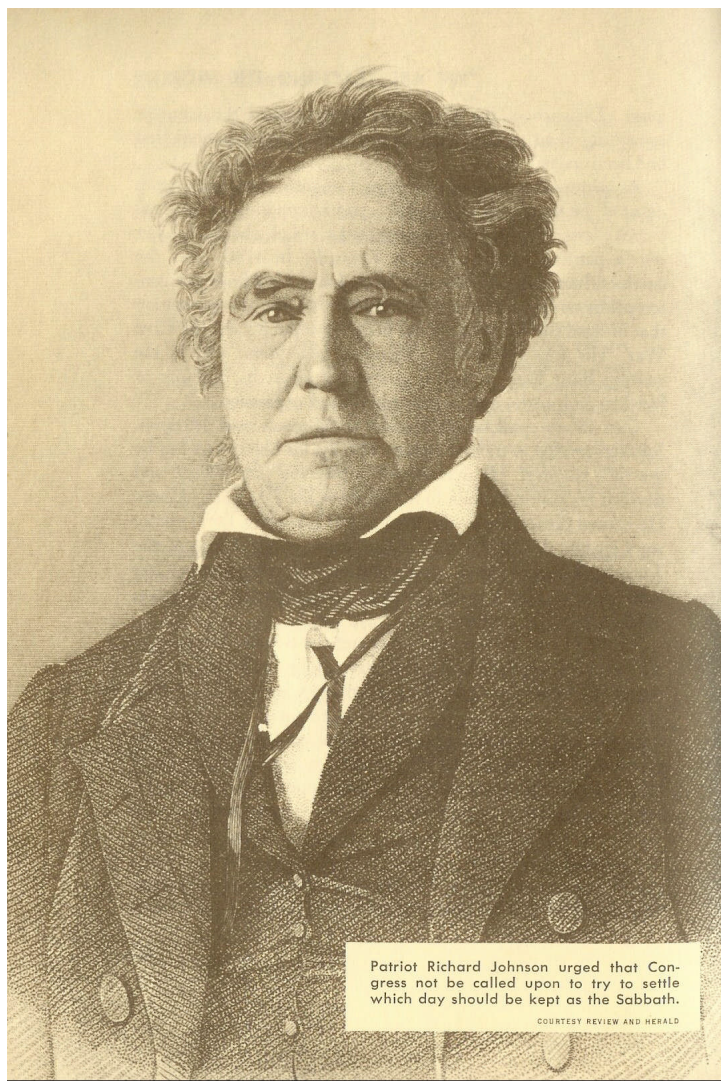
If there be a government, then, which prides itself on maintaining the inviolability of property; which provides that none shall be taken *directly*, even for public use, without indemnification to the owner, and yet *directly* violates the property which individuals have in their opinions, their religion, their persons, and their faculties, – nay more, *which indirectly* violates their property, in their actual possessions, in the labor that acquires their daily subsistence, and in the hallowed remnant of time which ought to relieve their fatigues and soothe their cares, the inference will have been anticipated, that such a government is not a pattern for the United States.²

Madison, however, had powerful opponents who pushed for Sunday legislation on the Federal level. The matter boiled to the surface April 26, 1810, when Congress acted to require postmasters to provide service every day of the week, including the first day.

A deluge of petitions from clergymen and others demanded that Congress rescind the law and endorse “the strict observance of the first day of the week, as set apart by the command of God for His more immediate service.”³ No effort was made to conceal the religious motivation.

In 1815 the Thirteenth Congress reaffirmed its previous action, but the agitation continued. Chains anchored with padlocks were stretched across post roads in Philadelphia to halt the movement of mail coaches on Sunday. Roads that had brought representatives from thirteen colonies to forge a new government a few years before, now challenged the free spirit of that government. [35] Defiance of the Federal authority carried the scent of something alien to the representative form of government that had been created.

As petitions continued to deluge Congress, that body again debated the issue, and again took a position opposed to national Sunday laws. Prominent in the opposition was Richard M. Johnson, a patriot's patriot. Born in



Patriot Richard Johnson urged that Congress not be called upon to try to settle which day should be kept as the Sabbath.
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Kentucky in 1780, after the colonies' formal break with England, Johnson's life began contemporaneously with that of his nation. His was the generation that bridged the era between the fledgling republic and the Civil War. His was a building, expanding generation; and as the country burst forth into new geographic areas its formulas of freedom and justice gained new plateaus of expression.

Cast in the philosophical mold of Madison and Jefferson, Johnson reveled in the atmosphere of religious liberty enjoyed by the new country. He determined to preserve that liberty, and devoted his political career to the ideals of the free spirit of man. He earned distinction in the War of 1812, leading 1,900 volunteers against the British and Indian forces at the Battle of the Thames, October 5, 1813. Five years later his colleagues in Congress awarded him a sword of honor for his “daring and distinguished valor” in combat.

In the House of Representatives and the Senate, and later in the vice-presidency of the United States, Johnson gained a reputation as a man of unshakable convictions, who would not yield to pressure of any kind. He met the Sunday-law issue head on, declaring his conviction that 999 out of 1,000 citizens “were opposed to any legislative interference, inasmuch as it would have a tendency to unite religious institutions with the government.” He saw in the proposals “the entering wedge of a scheme to make this government a religious, instead of a social and political, institution.” [36] (picture moved)

Senator Chambers of Maryland, a colleague of the Kentuckian, observed that the petitioners felt that “the observance of the Sabbath was connected with the civil interests of the government.” [37]

Johnson replied that while he did not dispute the pure motives of the petitioners, “some denominations considered one day the most sacred, and some looked to another, and these petitions did, in fact, call upon Congress to settle what was the law of God. . . . Whether it was the first day or the seventh, the principle was wrong.”¹⁴

In precedent-shattering actions taken in 1829 and 1830, both the Senate and the House adopted reports which followed the Johnson arguments and repudiated the Sunday legislation. The report Johnson submitted to the Senate was adopted in 1829. State legislatures in Indiana, Alabama, Illinois, and Kentucky joined with private citizens to celebrate its acceptance. A definitive declaration, this report emphasized that the United States Government is a “civil and not a religious institution,” and as such “it is not the legitimate province of the legislature to determine what religion is true, or what false.” Rather, the Government's proper function is to protect all persons “in the enjoyment of their religious as well as civil rights, and not to determine for any whether they shall esteem one day above another, or esteem all days alike holy.”

Continuing the report, Johnson warned that in all past religious trials and persecutions victims suffered because they violated what some government had “denominated the law of God.” He rejected the proposal that the Federal legislature could be an effective tribunal to interpret the laws of God, for once the principle is “established that religion, or religious observances, shall be interwoven with our legislative acts, we must pursue to its ultimatum.” This, he contended, could lead to use of public monies for the construction of churches and salaries of the clergy.

Further, Johnson's report argued that, according to the principle of separation of church and state, all citizens of varying religious persuasions are equal under the law. [38] “While the mail is transported on Saturday, the Jew and the Sabbatarian may abstain from any agency in carrying it, on conscientious scruples. While it is transported on the first day of the week, another class may abstain, from the same religious scruples. The obligation of government is the same to both these classes; and the committee can discover no principle on which the claims of one should be more respected than those of the other, unless it be admitted that the consciences of the minority are less sacred than those of the majority.”

Johnson stressed national security in his plea to retain daily mail service. With heavy westward migration, any breakdown in communication would constitute a threat to operation of government on the fringes of the nation's new frontiers.

The report concluded by suggesting that persuasion offered the best means of enforcing religious observances. By means of a living religion, with meaningful deeds of benevolence, meekness, temperance, and holiness, the moral influence of the Sunday-law advocates would “then do infinitely more to advance the true interests of religion, than any measures which they may call on Congress to enact.”⁵

In 1830 Richard Johnson again served in the House of Representatives. As before, his dynamic leadership was the inspiration behind a report on the same issue brought before the House on March 4 and 5 of that year.

Rarely has a political document been more profound in its impact and influence. As in the Senate report of the preceeding year, the need for uninterrupted communication with the West was cited. “To stop the mails one day in seven would be to thrust the whole western country, and other distant parts of this republic, one day's journey from the seat of government.”

[39] As if aware of the precedent-setting impact this Congressional confrontation would have on subsequent Federal Sunday-law proposals, Johnson expressed his relief that “the proposition should have been made at this early period, while the spirit of the Revolution yet exists in full vigor.”

Recognizing the diversity of thought with respect to first-day versus seventh-day observance, the House Committee on the Post Office and Post

Roads pointed to government's obligation to "protect all and determine for none," since "Congress acts under a constitution of delegated and limited powers. The committee looked in vain to that instrument for a delegation of power authorizing this body to inquire and determine what part of time, or whether any, has been set apart by the Almighty for religious exercises. On the contrary, among the few prohibitions which it contains is one . . . that Congress shall pass no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Since the Sunday business hours observed by the post office had already been made flexible in order not to interfere with public worship, "the committee believe that there is no just ground of complaint, unless it be conceded that they have a controlling power over the consciences of others."

"If Congress shall declare the first day of the week holy, it will not convince the Jew nor the Sabbatarian. It will dissatisfy both, and, consequently, convert neither. Human power may extort vain sacrifices, but the Deity alone can command the affections of the heart."

The committee report recalled painful persecutions of the past and the reasons behind them. It noted that the Christian religion was opposed originally by human government.

Banishment, tortures, and death were inflicted in vain to stop its progress. But many of its professors, as soon as clothed with political power, lost the meek spirit which their creed inculcated, and began to inflict on other religions, and on dissenting sects of their own religion, persecutions more aggravated than those which their own apostles had endured.

[40] The ten persecutions of pagan emperors were exceeded in atrocity by the massacres and murders perpetrated by Christian bands; and in vain shall we examine the records of imperial tyranny for an engine of cruelty equal to the holy Inquisition. Every religious sect, however meek its origin, commenced the work of persecution as soon as it acquired political power. . . .

What did the Protestants of Germany, or the Huguenots of France, ask of their Catholic superiors? Toleration. What do the persecuted Catholics of Ireland ask of their oppressors? Toleration. Do not all men in this country enjoy every religious right which martyrs and saints ever asked? Whence, then, the voice of complaint? Who is it that, in the full enjoyment of every principle which human laws can secure, wishes to wrest a portion of these principles from his neighbor?

The report speculated as to the absurdities that might result once a Federal Sunday law were adopted. If it is sinful to carry letters, “it must be equally sinful for individuals to write, carry, receive, or read them.” Therefore, “it would seem to require that these acts should be made penal to complete the system.”

Ultimately, the committee warned, laws could be established to suppress travel on the Lord's Day, except for church attendance. Newspapers would be unobtainable, as printing, delivering, and receiving them would constitute transgression. Eventually even conversation would be limited, except on religious topics. Social relationships on the first day would cease. Eventually, even men's thoughts would cease to be their own.

The report concluded with an appeal to reason.

If the Almighty has set apart the first day of the week as a time which man is bound to keep holy, and devote exclusively to His worship, would it not be more congenial to the precepts of Christians to appeal exclusively to the Great Lawgiver of the universe to aid them in making men better – in correcting their practices, by purifying their hearts? Government will protect them in their efforts. [41] When they shall have so instructed the public mind, and awakened the consciences of individuals as to make them believe that it is a violation of God's law to carry the mail, open post-offices, or receive letters on Sunday, the evil of which they complain will cease of itself, without any exertion of the strong arm of civil power.

In the history of Sunday-law controversy there had never been a more devastating analysis than that developed by the eloquent Richard Johnson and adopted by the Congress of the United States in 1829 and 1830. So complete was the victory for religious freedom that not until 1888 was any serious move again made in Congress for a national Sunday observance. Despite this lull, most nineteenth-century state governments clung to Sunday blue laws in spirit and fact, and state courts still enforced first-day observance on a patently religious platform.

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3. Ibid, p. 188.
4. *Register of Debates in Congress*, Vol. 5 p. 42. In *American State Papers*, pages 188, 189.
5. *Senate Report on Sunday Mails*, January 19, 1829. In *American State Papers*, pages 190-195.
6. *House Report on Sunday Mails*, March 4, 5, 1830. In *American State Papers*, pages 196-205.

[42] (picture moved)