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13. THE DOUGLAS DISSENT

by JUSTICE WILLIAM O. DOUGLAS

(United States Supreme Court Justice William O. Douglas dissented from the majority in the 1961 Sunday-law cases. He believed that the blue laws before the court constituted a violation of both the "establishment clause" and the "free exercise clause" of the First Amendment. Except for footnotes, Justice Douglas's statement is here reproduced in full, as recorded in *McGowan v Maryland,* 366 U.S. 561-581 [1961.)

The question is not whether one day out of seven can be imposed by a State as a day of rest. The question is not whether Sunday can by force of custom and habit be retained as a day of rest. The question is whether a State can impose criminal sanctions on those who, unlike the Christian majority that makes up our society, worship on a different day or do not share the religious scruples of the majority.

If the "free exercise" of religion were subject to reasonable regulations, as it is under some constitutions, or if all laws respecting the establishment of religion" were not proscribed, I could understand how rational men, representing a predominantly Christian civilization, might think these Sunday laws did not unreasonably interfere with anyone's free exercise of religion and took no step toward a burdensome establishment of any religion.

But that is not the premise from which we start, as there is agreement that the fact that a State, and not the Federal Govemment, has promulgated these Sunday laws does not change the scope of the power asserted. **[144]** For the classic view is that the First Amendment should be applied to the States with the same firmness as it is enforced against the Federal Government. See *Lovell v. City of Griffin,* 303 U.S. 444, 450; *Minersville School District v. Gobitis,* 310 U.S. 586, 593; *Murdock v. Pennsylvania,* 319 U.S. 105, 108; *Board of Education v. Barnette,* 319 U.S. 624, 639; *Staub v. City of Baxley,* 355 U.S. 313, 321; *Talley v. California,* 362 U.S. 60. The most explicit statement perhaps was in *Board of Education v. Barnette*, supra, 639.

In weighing arguments of the parties it is important to distinguish between the due process clause of the Fourteenth Amendment as an instrument for transmitting the principles of the First Amendment and those cases in which it is applied for its own sake. The test of legislation which collides with the Fourteenth Amendment, because it also collides with the principles of the First, is much more definite than the test when only the Fourteenth is involved. Much of the vagueness of the due process clause disappears when the specific prohibitions of the First become its standard. The right of a State to regulate, for example, a public utility may well include, so far as the due process test is concerned, power to impose all of the restrictions which a legislature may have a 'rational basis' for adopting. But freedoms of speech and of press, of assembly, and of worship may not be infringed on such slender grounds. *They are susceptible of restriction only to prevent grave and immediate danger to interests which the State may lawfully protect.* It is important to note that while it is the Fourteenth Amendment which hears directly upon the State it is the more specific limliting principles of the First Amendment that finally govern this case.

With that as my starting point I do not see how a State can make protesting citizens refrain from doing innocent acts on Sunday because the doing of those acts offends sentiments of their Christian neighbors.

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[146] The institutions of our society are founded on the belief that there is an authority higher than the authority of the State; that there is a moral law which the State is powerless to alter; that the individual possesses rights, conferred by the Creator, which government must respect. The Declaration of Independence stated the now familiar theme:

Sunday laws, said Justice Douglas, make a sharp break with the American ideal of liberty as enshrined in the First Amendment.

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> "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

And the body of the Constitution as well as the Bill of Rights enshrined those principles.

The Puritan influence helped shape our constitutional law and our common law as Dean Pound has said: The Puritan "put individual conscience and individual judgment in the first place." The Spirit of the Common Law (1921), p. 42. For those reasons we stated in *Zorach v. Clauson,* 343 U.S. 306, 313, "We are a religious people whose institutions presuppose a Supreme Being."

But those who fashioned the First Amendment decided that if and when God is to be served, His service will not be motivated by coercive measures of government. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" – such is the command of the First Amendment made applicable to the State by reason of the Due Process Clause of the Fourteenth. This means, as I understand it, that if a religious leaven is to be worked into the affairs of our people, it is to be done by individuals and groups, not by the Government. This necessarily means, *first* that the dogma, creed, scruples, or practices of no religious group or sect are to be preferred over those of any others; *second,* that no one shall be interfered with by government for practicing the religion of his choice; *third,* that the State may not require anyone to practice a religion or even any religion; and *fourth,* that the State cannot compel one so to conduct himself as not to offend the religious scruples of another. **[147]** The idea, as I understand it, was to limit the power of government to act in religious matters *(Board of Education v. Barnette,* supra; *McCollum v. Board of Education,* 333 U.S 203), not to limit the freedom of religious men to act religiously nor to restrict the freedom of atheists or agnostics.

The First Amendment commands government to have no interest in theology or ritual; it admonishes government to be interested in allowing religious freedom to flourish – whether the result is to produce Catholics, Jews, or Protestants, or to turn the people toward the path of Buddha, or to end in a predominantly Moslem nation, or to produce in the long run atheists or agnostics. On matters of this kind government must be neutral. This freedom plainly includes freedom from religion with the right to believe, speak, write, publish and advocate antireligious programs. *Board of Education v. Barnette,* supra, 641. Certainly the "free exercise" clause does not require that everyone embrace the theology of some church or of some faith, or observe the religious practices of any majority or minority sect. The

First Amendment by its "establishment" clause prevents, of course, the selection by government of an "official" church. Yet the ban plainly extends farther than that. We said in *Everson v. Board of Education*, 330 U.S. 1, 16, that it would be an "establishment" of a religion if the Government financed one church or several churches. For what better way to "establish" an institution than to find the fund that will support it? The "establishment" clause protects citizens also against any law which selects any religious custom practice, or ritual, puts the force of government behind it, and fines, imprisons, or otherwise penalizes a person for not observing it. The Government plainly could not join forces with one religious group and decree a universal and symbolic circumcision. Nor could it require all children to be baptized or give tax exemptions only to those whose children were baptized.

[148] Could it require a fast from sunrise to sunset throughout the Moslem month of Ramadan? I should think not. Yet why then can it make criminal the doing of other acts, as innocent as eating, during the day that Christians revere?

Sunday is a word heavily overlaid with connotations and traditions deriving from the Christian roots of our civilization that color all judgments concerning it. This is what the philosophers call "word magic."

> "For most judges, for most lawyers, for most human beings, we are as unconscious of our value patterns as we are of the oxygen that we breathe." – Cohen, *Legal Conscience* (1960), p. 169.

The issue of these cases would therefore be in better focus if we imagined that a state legislature, controlled by orthodox Jews and Seventh-Day Adventists, passed a law making it a crime to keep a shop open on Saturdays. Would a Baptist, Catholic, Methodist, or Presbyterian be compelled to obey that law or go to jail or pay a fine? Or suppose Moslems grew in political strength here and got a law through a state legislature making it a crime to keep a shop open on Fridays. Would the rest of us have to submit under the fear of criminal sanctions?

Dr. John Cogley recently summed up the dominance of the three-religion influence in our affairs:

> "For the foreseeable future, it seems, the United States is going to be a three-religion nation. At the present time all three are characteristically 'American,' some think flavorlessly so. For religion in America is almost uniformly 'respectable,' bourgeois, and prosperous. In the Protestant world the 'church' mentality has triumphed over the more venturesome spirit of the 'sect.' In the Catholic world, the mystical is muted in favor of booming organization and efficiently administered

> good works. And in the Jewish world the prophet is too frequently without honor, while the synagogue emphasis is focused on suburban togetherness. **[149]** There are exceptions to these rules, of course; each of the religious communities continues to cast up its prophets, its rebels and radicals. But a Jeremiah, one fears, would be positively embarrassing to the present position of the Jews; a Francis of Assisi upsetting the complacency of American Catholics would be rudely dismissed as a fanatic; and a Kierkegaard, speaking with an American accent, would be considerably less welcome than Norman Vincent Peale in most Protestant pulpits."

This religious influence has extended far, far back of the First and Fourteenth Amendments. Every Sunday School student knows the Fourth Commandment:

> "Remember the sabbath day to keep it holy.
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> "Six days shalt thou labour, and do all thy work:
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> "But the seventh day is the sabbath of the LORD thy God: in it thou shalt not do any work, thou, nor thy son, nor thy daughter, thy manservant, nor thy maidservant, nor thy stranger that is within thy gates:
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> "For in six days the LORD made heaven and earth, the sea, and all that in them is, and rested the seventh day: wherefore the LORD blessed the sabbath day, and hallowed it." Exodus 20:8-11.

This religious mandate for observance of the Seventh Day became, under Emperor Constantine, a mandate for observance of the First Day "in conformity with the practice of the Christian Church." See *Richardson v. Goddard,* 23 How. 28, 41. This religious mandate has had a checkered history; but in general its command, enforced now by the ecclesiastical authorities, now by the civil authorities, and now by both, has held good down through the centuries. The general pattern of these laws in the United States was set in the eighteenth century and derives, most directly, from the seventeenth century English statute. 29 Charles II, c. 7. Judicial comment on the Sunday laws has always been a mixed bag. Some judges have asserted that the statutes have a "purely" civil aim, i.e., limitation of work time and provision for a common and universal leisure. **[150]** But other judges have recognized the religious significance of Sunday and that the laws existed to enforce the maintenance of that significance. In general, both threads of argument have continued to interweave in the case law on the subject. Prior to the time when the First Amendment was held applicable to the States by

reason of the Due Process Clause of the Fourteenth, the Court at least by *obiter dictum* approved State Sunday laws on three occasions: *Soon Hing v. Crowley,* 113 U.S. 703, in 1885; *Hennington v. Georgia,* 163 U.S. 299, in 1896; *Petit v. Minnesota,* 177 U.S. 164, in 1900. And in *Friedman v. New York,* 341 U.S. 907, the Court, by a divided vote, dismissed "for the want of a substantial federal question" an appeal from a New York decision upholding the validity of a Sunday law against an attack based on the First Amendment.

The *Soon Hing, Hennington,* and *Petit* cases all rested on the police power of the State – the right to safeguard the health of the people by requiring the cessation of normal activities one day out of seven. The Court in the *Soon Hing* case rejected the idea that Sunday laws rested on the power of government "to legislate for the promotion of religious observances." 113 U.S. 710. The New York Court of Appeals in the *Friedman* case followed the reasoning of the earlier cases, 302 N.Y. 75, 80, 96 N. E. 2d 184, 186.

The Massachusetts Sunday law involved in one of these appeals was once characterized by the Massachusetts court as merely a civil regulation providing for a "fixed period of rest." *Commonwealth v. Has,* 122 Mass. 40, 42. That decision was, according to the District Court in the *Gallagher* case, "an *ad hoc* improvisation" made "because of the realization that the Sunday law would be more vulnerable to constitutional attack under the state Constitution if the religious motivation of the statute were more explicitly avowed." 176 F. Supp. 466, 473. Certainly prior to the *Has* case, the Massachusetts courts had indicated that the aim of the Sunday law was religious. See *Pearce v. Atwood,* 13 Mass. 324, 345-346; *Bennett v. Brooks,* 91 Mass. 118, 121.

[151] After the *Has* case the Massachusetts court construed the Sunday law as a religious measure. In *Davis v. Somerville,* 128 Mass. 594, 596, 35 Am. Rep. 399, 400, it was said:

> "Our Puritan ancestors intended that the day should be not merely a day of rest from labor, but also a day devoted to public and private worship and to religious meditation and repose, undisturbed by secular cares or amusements. They saw fit to enforce the observance of the day by penal legislation, and the statute regulations which they devised for that purpose have continued in force, without any substantial modification, to the present time."

And see *Commonwealth v. Dextra,* 143 Mass. 28, 8 N. E. 756. In *Commonwealth v. White,* 190 Mass. 578, 581, 77 N. E. 636, 637, the court refused to liberalize its construction of an exception in its Sunday law for works of "necessity." That word, it said, "was originally inserted to secure the observance of the Lord's day in accordance with the views of our ancestors,

and it ever since has stood and still stands for the same purpose." In *Commonwealth v. McCarthy,* 244 Mass. 484, 486, 138 N.E. 835, 836, the court reiterated that the aim of the law was "to secure respect and reverence for the Lord's day."

The Pennsylvania Sunday laws before us in Nos. 36 and 67 have received the same construction. "Rest and quiet, on the Sabbath day, with the right and privilege of public and private worship, undisturbed by any mere worldly employment, are exactly what the statute was passed to protect." *Sparhawk v. Union Passenger R.* Co., 54 Pa. 401, 423. And see *Commonwealth v. Nesbit,* 34 Pa. 398, 405, 406-408. A recent pronouncement by the Pennsylvania Supreme Court is found in *Commonwealth v. American Baseball Club,* 290 Pa. 136, 143, 138 A. 497, 499: "Christianity is part of the common law of Pennsylvania **. . .** and its people are christian people. Sunday is the holy day among christians."

[152] The Maryland court, in sustaining the challenged law in No. 8 relied on *Judefind v State,* 78 Md. 510, 28 A. 405, and *Levering v Park Commissioner,* 134 Md. 48, 106 A. 176. In the former the court said:

> "It is undoubtedly true that rest from secular employment on Sunday does have a tendency to foster and encourage the Christian religion, of all sects and denominations that observe that day, as rest from work and ordinary occupation enables many to engage in public worship who probably would not otherwise do so. But it would scarcely be asked of a court, in what professed to be a Christian land, to declare a law unconstitutional because it requires rest from bodily labor on Sunday, except works of necessity and charity, and thereby promotes the cause of Christianity. If the Christian religion is, incidentally or otherwise, benefited or fostered by having this day of rest, (as it undoubtedly is,) there is all the more reason for the enforcement of laws that help to preserve it." 78 Md., at pages 515-516, 28 A. at page 407.

In the Levering case the court relied on the excerpt from the Judefind decision just quoted. 134 Md. at 54-55, 106 A. at 178.

We have then in each of the four cases Sunday laws that find their source in Exodus, that were brought here by the Virginians and by the Puritans, and that are today maintained, construed, and justified because they respect the views of our dominant religious groups and provide a needed day of rest.

The history was accurately summarized a century ago by Chief Justice Terry of the Supreme Court of California in *Ex Parte Newman,* 9 Cal. 502, 509:

> "The truth is, however much it may be disguised, that this one day of rest is a purely religious idea. Derived from the Sabbatical institutions of the ancient Hebrew, it has been adopted into all the creeds of succeeding religious sects throughout the civilized world; 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 affections 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."

[153] That case involved the validity of a Sunday law under a provision of the California Constitution guaranteeing the "free exercise" of religion. Calif. Const., 1849, Art. 1, § 4. Justice Burnett stated why he concluded that the Sunday law, there sought to be enforced against a man selling clothing on Sunday, infringed California's constitution:

> Had the act made Monday, instead of Sunday, a day of compulsory rest, the constitutional question would have been the same. The fact that the Christian voluntarily keeps holy the first day of the week, does not authorize the Legislature to make that observance compulsory. The Legislature can not compel the citizen to do that which the Constitution leaves him free to do or omit, at his election. The act violates as much the religious freedom of the Christian as of the Jew. Because the conscientious views of the Christian compel him to keep Sunday as a Sabbath, he has the right to object, when the Legislature invades his freedom of religious worship, and assumes the power to compel him to do that which he has the right to omit if he pleases. The principle is the same, whether the act of the Legislature compels us to do that which we wish to do, or not to do. . . .
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> "Under the Constitution of this State, the Legislature cannot pass any act, the legitimate effect of which is forcibly to establish any merely religious truth, or enforce any merely religious observances. The Legislature has no power over such a subject. When, therefore, the citizen is sought to be compelled by the Legislature to do any affirmative religious act, or to refrain from doing anything, because it violates simply a religious principle or observance, the act is unconstitutional." Id., at 513-515.

The Court picks and chooses language from various decisions to bolster its conclusion that these Sunday laws in the modern setting are "civil regulations." **[154]** No matter how much is written, no matter what is said, the parentage of these laws is the Fourth Commandment; and they serve and satisfy the religious predispositions of our Christian communities. After all,

the labels a State places on its laws are not binding on us when we are confronted with a constitutional decision. We reach our own conclusion as to the character, effect, and practical operation of the regulation in determining its constitutionality. *Carpenter v. Shaw,* 280 U.S. 363, 367-368; *Dyer v. Sims,* 341 U.S. 22, 29; *Memphis Steam Laundry v. Stone,* 342, U.S. 389, 392; *Society for Savings v. Bawers,* 349 U.S. 143, 151; *Gomillion v. Lightfoot,* 364 U.S. 339, 341-342.

It seems to me plain that by these laws the States compel one, under sanction of law, to refrain from work or recreation on Sunday because of the majority's religious views about that day. The State by law makes Sunday a symbol of respect or adherence. Refraining from work or recreation in deference to the majority's religious feelings about Sunday is within every person's choice. By what authority can government compel it?

Cases are put where acts that are immoral by our standards but not by the standards of other religious groups are made criminal. That category of cases, until today, has been a very restricted one confined to polygamy *(Reynolds v. United States,* 98 U.S. – 145) and other extreme situations. The latest example is *Prince v. Massachusetts,* 321 U.S. 158, which upheld a statute making it criminal for a child under twelve to sell papers, periodicals, or merchandise on a street or in any public place. It was sustained in spite of the finding that the child thought it was her religious duty to perform the act. But that was a narrow holding which turned on the effect which street solicitation might have on the child-solicitor:

> "The state's authority over children's activities is broader than over like actions of adults. This is peculiarly true of public activities and in matters of employment. **[155]** A democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens, with all that implies. It may secure this against impeding restraints and dangers within a broad range of selection. Among evils most appropriate for such action are the crippling effects of child employment, more especially in public places, and the possible harms arising from other activities subject to all the diverse influences of the street. It is too late now to doubt that legislation appropriately designed to reach such evils is within the state's police power, whether against the parent's claim to control of the child or one that religious scruples dictate contrary action." Id., 168-169.

None of the acts involved here implicates minors. None of the actions made constitutionally criminal today involves the doing of any act that any society has deemed to be immoral.

The conduct held constitutionally criminal today embraces the selling of pure, not impure, food; wholesome, not noxious, articles. Adults, not minors, are involved. The innocent acts, now constitutionally classified as criminal, emphasize the drastic break we make with tradition.

These laws are sustained because, it is said, the First Amendment is concerned with religious convictions or opinion, not with conduct. But it is a strange Bill of Rights that makes it possible for the dominant religious group to bring the minority to heel because the minority, in the doing of acts which intrinsically are wholesome and not antisocial, does not defer to the majority's religious beliefs. Some have religious scruples against eating pork. Those scruples, no matter how bizarre they might seem to some, are within the ambit of the First Amendment. See *United States v. Ballard*, 322 U.S. 78, 87. Is it possible that a majority of a state legislature having those religious scruples could make it criminal for the nonbeliever to sell pork? Some have religious scruples against slaughtering cattle. Could a state legislature, dominated by that group, make it criminal to run an abattoir?

[156] The Court balances the need of the people for rest, recreation, late sleeping, family visiting, and the like against the command of the First Amendment that no one need bow to the religious beliefs of another. There is in this realm no room for balancing I see no place for it in the constitutional scheme. A legislature of Christians can no more make minorities conform to their weekly regime than a legislature of Moslems, or a legislature of Hindus. The religious regime of every group must be respected unless it crosses the line of criminal conduct. But no one can be forced to come to a halt before it, or refrain from doing things that would offend it. That is my reading of the Establishment Clause and the Free Exercise Clause. Any other reading imports, I fear, an element common in other societies but foreign to us. Thus Nigeria in Article 23 of her Constitution, after guaranteeing religious freedom, adds, "Nothing in this section shall invalidate any law that is reasonably justified in a democratic society in the interest of defence, public safety, public order, public morality, or public health." And see Article 25 of the Indian Constitution. That may be a desirable provision. But when the Court adds it to our First Amendment, as it does today, we make a sharp break with the American ideal of religious liberty as enshrined in the First Amendment.

The State can, of course, require one day of rest a week: one day when every shop or factory is closed. Quite a few States make that requirement. Then the "day of rest" becomes purely and simply a health measure. But the Sunday laws operate differently. They force minorities to obey the majority's religious feelings of what is due and proper for a Christian community; they provide a coercive spur to the "weaker brethren," to those who are indifferent to the claims of a Sabbath through apathy or scruple. Can there be any doubt

that Christians, now aligned vigorously in favor of these laws, would be as strongly opposed if they were prosecuted under a Moslem law that forbade them from engaging in secular activities on days that violated Moslem scruples?

[157] There is an "establishment" of religion in the constitutional sense if any practice of any religious group has the sanction of law behind it. There is an interference with the "free exercise" of religion if what in conscience one can do or omit doing is required because of the religious scruples of the community. Hence I would declare each of those laws unconstitutional as applied to the complaining parties, whether or not they are members of a sect which observes as its Sabbath a day other than Sunday.

When these laws are applied to Orthodox Jews, as they are in No. 11 and No. 67, or to Sabbatarians their vice is accentuated. If the Sunday laws are constitutional, kosher markets are on a five-day week. Thus those laws put an economic penalty on those who observe Saturday rather than Sunday as the Sabbath. For the economic pressures on these minorities, created by the fact that our communities are predominantly Sunday-minded, there is no recourse. When, however, the State uses its coercive powers – here the criminal law – to compel minorities to observe a second Sabbath, not their own, the State undertakes to aid and "prefer one religion over another" – contrary to the command of the Constitution. See *Everson v. Board of Education*, supra, 15.

In large measure the history of the religious clause of the First Amendment was a struggle to be free of economic sanctions for adherence to one's religion. *Everson v. Board of Education,* supra, 330 U.S. 11-14. A small tax was imposed in Virginia for religious education. Jefferson and Madison led the fight against the tax, Madison writing his famous Memorial and Remonstrance against that law. Id., 12. As a result, the tax measure was defeated and instead Virginia's famous "Bill for Religious Liberty," written by Jefferson, was enacted. Id., 12. That Act provided:

> **[158]** "That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief **. . .**

The reverse side of an "establishment" is a burden on the "free exercise" of religion. Receipt of funds from the State benefits the established church directly; laying an extra tax on nonmembers benefits the established church indirectly. Certainly the present Sunday laws place Orthodox Jews and Sabbatarians under extra burdens because of their religious opinions or beliefs, Requiring them to abstain from their trade or business on Sunday

reduces their workweek to five days, unless they violate their religious scruples. This places them at a competitive disadvantage and penalizes them for adhering to their religious beliefs.

"The sanction imposed by the state for observing a day other than Sunday as holy time is certainly more serious economically than the imposition of a license tax for preaching," which we struck down in *Murdock v. Pennsylvania*, 319 U.S. 105, and in *Follett v. McCormick*, 321 U.S. 573. The special protection which Sunday laws give the dominant religious groups and the penalty they place on minorities whose holy day is Saturday constitute, in my view, state interference with the "free exercise" of religion.

I dissent from applying criminal sanctions against any of these complainants since to do so implicates the States in religious matters contrary to the constitutional mandate. Reverend Allan C. Parker, Jr., Pastor of the South Park Presbyterian Church, Seattle, Washington, has stated my views:

> "We forget that, though Sunday-worshiping Christians are in the majority in this country among religious people, we do not have the right to force our practice upon the minority. Only a church which deems itself without error and intolerant of error can justify its intolerance of the minority.
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> **[159]** "A Jewish friend of mine runs a small business establishment. Because my friend is a Jew his business is closed each Saturday. He respects my right to worship on Sunday and I respect his right to worship on Saturday. But there is a difference. As a Jew he closes his store voluntarily so that he will be able to worship his God in his fashion. Fine! But, as a Jew living under Christian inspired Sunday closing laws, he is required to close his store on Sunday so that I will be able to worship my God in my fashion.
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> "Around the corner from my church there is a small Seventh Day Baptist church. I disagree with the Seventh Day Baptists on many points of doctrine. Among the tenets of their faith with which I disagree is the 'seventh-day worship.' But they are good neighbors and fellow Christians, and while we disagree we respect one another. The good people of my congregation set aside their jobs on the first of the week and gather in God's house for worship. Of course, it is easy for them to set aside their jobs since Sunday-closing laws – inspired by the Church – keep them from their work. At the Seventh Day Baptist church the people set aside their jobs on Saturday to worship God. This takes real sacrifice because Saturday is a good day for business. But that is not all – they are required by law to set aside their jobs on Sunday while more orthodox Christians worship.

> ". . . I do not believe that because I have set aside Sunday as a holy day I have the right to force all men to set aside that day also. Why should my faith be favored by the state over any other man's faith?"

With all deference, none of the opinions filed today in support of the Sunday laws has answered that question.

[160] (picture moved)