

AMERICAN CONSTITUTIONALISM
VOLUME II: RIGHTS AND LIBERTIES
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Supplementary Material

Chapter 5: The Jacksonian Era – Individual Rights/Religion/Free Exercise

The Debate over Sunday Mails (1829)

The United State Post Office in the early republic transported and delivered (that is, made available in the post office) mail every day of the week. Congress received numerous petitions calling for the national government to respect the Sabbath and end the Sunday mails. These petitions raised establishment clause questions when insisting that a “Christian nation” should not permit Sunday mails and free exercise questions when claiming that religious postmasters should not be required to work on Sunday. Congress referred these petitions to committees. Those committees usually produced brief reports that called on the postmaster general to maintain regulations balancing the needs of the post office and the sensitivities of religious observers. Congressional committees in 1829 produced two elaborate and influential reports, one from the House and one from the Senate. Kentucky Democrat Richard Johnson (1780–1850), who later served as Vice-President under Martin Van Buren, wrote the Senate report. Samuel McKean (1787–1841), a Democrat from Pennsylvania, wrote the House report. Some state legislatures endorsed Johnson’s report, which justified Sunday mails. After that report, the pace of petitions opposing Sunday mails slowed. After the Civil War the Sunday mails issue was revived as part of a broader movement supporting national Sabbath-keeping.

The memorials from Newark and North Carolina insist that the United States is a Christian nation. On what basis did they make that claim? Did the reports from Senator Johnson and Representative McKean endorse that claim? How do attitudes toward whether the United States is a Christian nation influence both the free exercise and establishment clause arguments on Sunday mails?

Memorial from Newark, New Jersey on Sunday Mails¹

That your memorialists conscientiously believe that the people of these United States, in their national capacity and character, constitute a Christian nation. If a Christian nation, then our Government is a Christian Government, a Government formed and established by Christians, and therefore bound by the word of God, not at liberty to contravene his laws, nor to act irrespectively of the obligations we owe to Him. That the Government of the United States was formed under the influence of Christian principles, is most emphatically proved by the protection it secures to the right of conscience in matters of religion, and in denying Congress the power of passing any law prohibiting the free exercise thereof. . . . And yet . . . when Congress pass a law requiring the secular concerns of Government to be transacted on the Christian Sabbath, do they not, in effect, say to the people, You must give up your religious notions about the sanctity of the Sabbath, or you shall have no share in the honors or emoluments of office? . . . Must not a Christian postmaster either abandon his *religion* or his *office*? and is this religious liberty? Your memorialists respectfully conceive that that alone is “religious liberty” which permits a man, in perfect consistency with his religious feelings, to enjoy all the rights, privileges, and immunities of an American citizen; and among those rights, is, that of serving his country in any situation in the Post Office Department for which his talents and integrity qualify him. . . .

¹ *American State Papers: Class VII: Post Office Department*, ed. Walter Lowrie and Walter S. Franklin (Washington, DC: Gales and Seaton, 1834), 232.

*Memorial from North Carolina*²

That, in a Christian community, where all the chartered rights and political institutions, as well as the legislative provisions of the country, recognize the authority of the Christian religion, your memorialists deem it unnecessary to employ any reasoning to prove that Sabbath breaking is sinful. They beg leave, therefore, in the exercise of a constitutional right, and under the influence no less of a patriotic than of a moral sense of duty, with great deference and respect, to remonstrate against the transportation of the public mails, and against post office duties, on the holy Sabbath.

The practice of thus violating one of the express commands of God having the sanction of the constituted authorities of the Government assumes a national character, and may be justly called a national sin – the awful consequences of which are so often detailed in the sacred volume.

That the labor here commanded of is a profanation of the Lord's day, none, it is believed, will deny, unless there be found in it some overruling necessity to constitute an exception to the Divine mandate. But your memorialists can perceive no compulsion or indispensable need for such labor . . .

*Senate Report on Sunday Mails ("Johnson Report")*³

That some respite is required from the ordinary vocations of life, is an established principle, sanctioned by the usages of all nations, whether Christian or pagan. One day in seven has also been determined upon as the proportion of time; and, in conformity with the wishes of the great majority of citizens of this country, the first day of the week, commonly called Sunday, has been set apart to that object. The principle has received the sanction of the National Legislature, so far as to admit a suspension of all public business on that day, except in cases of absolute necessity, or of great public utility. This principle the committee would not wish to disturb. It should, however, be kept in mind that the proper object of government 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.

We are aware that a variety of sentiment exists among the good citizens of this nation on the subject of the Sabbath day; and our Government is designed for the protection of one as much as for another. . . .

With these different religious views the committee are of the opinion that Congress cannot interfere. It is not the legitimate province of the Legislature to determine what religion is true, or what is false. Our Government is a civil and not a religious institution. Our constitution recognizes in every person the right to choose his own religion, and to enjoy it freely, without molestation. . . .

The transportation of the mail on the first day of the week, it is believed, does not interfere with the rights of conscience. The petitioners for its discontinuance appear to be actuated from a religious zeal, which may be commendable if confined to its proper sphere They appear, in many instances, to lay down as an axiom, that the practice is a violation of the law of God. Should Congress in their legislative capacity, adopt the sentiment, it would establish the principle that the Legislature is a proper tribunal to determine what are the laws of God. . . . If this principle is introduced, it will be impossible to define its bounds. . . .

Under the present regulations of the Post Office Department, the rights of conscience are not invaded. Every agent enters voluntarily, and, it is presumed, conscientiously, into the discharge of his duties, without intermeddling with the conscience of another. Post offices are so regulated as that but a small proportion of the first day of the week is required to be occupied in official business. . . . While the mail is transported on Saturday, the Jew and the Sabbatarian may abstain from any agency in carrying it, from 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 of these

² *American State Papers: Class VII: Post Office Department*, ed. Walter Lowrie and Walter S. Franklin (Washington, DC: Gales and Seaton, 1834), 232.

³ *Register of Debates on Congress*, 20th Cong., 2nd Sess. App. (1829), 24–26.

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 should be admitted that the consciences of the minority are less sacred than those of the majority.

It is the opinion of the committee that the subject should be regarded simply as a question of expediency, irrespective of its religious bearing. . . . Congress have never legislated upon the subject. It rests, as it ever has done, in the legal discretion of the Postmaster General, under repeated refusals of Congress to discontinue the Sabbath mails. . . .

The petitioners do not complain of any infringement upon their own rights. They enjoy all that Christians ought to ask at the hand of any Government – protection from all molestation in the exercise of their religious sentiments.

*House Report on Sunday Mails ("McKean Report")*⁴

. . . .
The committee believe that a proper observance of the Sabbath is calculated to elevate the moral condition of society. In accordance with the recorded example of the Creator of the Universe, and enforced by scripture precepts, one day in seven should be abstracted from ordinary business, and devoted to moral and religious exercises. . . . It has made them better citizens, and better men in all the relations of society, both public and private.

The institution of the Sabbath is respected in various operations of our Government. In the halls of legislation, the courts of justice, and the executive departments, except under peculiar emergencies, business is suspended, not by legal provision, but by force of public opinion. Restraints imposed on the consciences of individuals by human laws, sanctioned by severe penalties, have always failed to produce reformation. They have generally, if not always, made men worse instead of better. . . .

The committee, therefore, as citizens and legislators, would be ready to repel any attempt to bring the consciences of men under legislative control in this country. A disposition to do so can never proceed from the pure principles of Christianity.

. . . It is not considered by the committee that the petitioners ask the introduction of any new principle into our laws, but the extension of one which has already been recognized. In the policy of the measure desired, the committee believe the petitioners are mistaken, but they do not consider the attempt made by them as tending to form the justly odious combination of church and state.

. . . .
A well-regulated mail establishment is an indispensable requisite to a free Government, and to the commercial, agricultural, and manufacturing interest of an enterprising and growing people. Every buyer and seller should be informed of the state of the market, at home and abroad, with the greatest possible certainty and expedition. This can only be accomplished through the operations of the mail . . . Every part must harmonize like a well-regulated machine . . .

On the other branch of the case, that of postmasters being compelled, by law, to keep open their offices and deliver letters, newspapers, &c., on the Sabbath, this the committee believe, is not absolutely necessary for the successful transaction of any branch of business. . . . It is believed that the statute books contain no provision, except in the instance of postmasters, requiring the performance of official duty on the Sabbath.

In conclusion, the committee earnestly recommend the repeal of so much of the eleventh section of the post office law . . . as requires postmasters to deliver letters, newspapers, &c. on the Sabbath.

⁴ *American State Papers: Class VII: Post Office Department*, ed. Walter Lowrie and Walter S. Franklin (Washington, DC: Gales and Seaton, 1834), 212–13.