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# APPEAL

FROM THE

## U. S. SUPREME COURT DECISION

MAKING THIS

“A CHRISTIAN NATION.”

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A PROTEST.

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Review of the United States Supreme Court Decision in Case No. 143—October Term, 1891. The Rector, Church Wardens, and Vestrymen of the Church of the Holy Trinity, Plaintiffs in Error vs. the United States. [February 29, 1892.]

And also certain Acts of Congress for the closing of the World's Columbian Exposition on Sunday.

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ALONZO T. JONES,

Author of “The Two Republics,” “Due Process of Law and the Divine Right of Dissent,” Etc., Etc.

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INTERNATIONAL RELIGIOUS LIBERTY ASSOCIATION.

1893.



**APPEAL**  
FROM THE  
**UNITED STATES SUPREME COURT DECISION,**  
MAKING THIS  
"A CHRISTIAN NATION."  
**A PROTEST.**

ON the twenty-ninth day of February, 1892, the Supreme Court of the United States rendered a decision, and on the nineteenth day of July, 1892, the Congress of the United States passed certain acts, which singly and together vitally concern every person in the United States first, and through these every person in the world.

Before noticing these proceedings in detail, and that this may be done to the best advantage and in the most forcible way, it will be best to take a view of the fundamental principles of the government of the United States and the grand characteristics of this nation.

On the reverse side of the Great Seal of the United States there is a Latin inscription — *Novus Ordo Sæculorum* — meaning "A New Order of Things." This new order of things was designed and accomplished in the American Revolution, which was the expression of two distinct ideas: *First*, that government is of the people; and, *second*, that government is of right entirely separate from religion.

These two ideas are but the result of the one grand fundamental principle, the chief corner stone of American institutions,—

## THE RIGHTS OF THE PEOPLE.

And this is briefly comprehended and nobly expressed in the following words of the Declaration of Independence : —

“ 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. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed ; that when any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.”

Thus in two sentences was annihilated the despotic doctrine, which, springing from the usurped authority of the papacy to sit in the place of God, and to set up and pull down kings, and to bestow kingdoms and empires at its arbitrary will, had become venerable, if not absolutely hallowed, by the precedents of a thousand years — the doctrine of the divine right of rulers : and in the place of the old, false, and despotic *theory* of the sovereignty of the government and the subjection of the people, there was declared, to all nations and for all time, the self-evident *truth*, the subjection of the government and the sovereignty of the people.

This self-evident and unalterable *truth* of the supremacy of the rights of the people in government was set forth as the fundamental principle of the government of the United States when the national Constitution was formed ; for the preamble to that document announces that —

“ *We, the people* of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, *do ordain and establish this Constitution for the United States of America.*”



And this truth became an established and everlasting fixture of this government, when the ninth and tenth amendments were adopted, for Article IX of Amendments says:—

"The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others *retained by the people.*"

And Article X of Amendments says:—

"*The powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*"

It is, however, the rights of the people *with respect to religion* with which we have here particularly to deal, as religion is the subject of the Supreme Court decision and the acts of Congress that are to be noticed.

The right of the people of the United States to be religious or not religious, each one for himself alone, without any notice or interference of the government in any way, is a natural, a constitutional, and a divine right.

*This natural right* was one which was particularly considered in "the times of seventy-six," and of the establishment of American independence. June 12, 1776, twenty-two days before the Declaration of Independence, a convention of the Colonial House of Burgesses, of Virginia, adopted a Declaration of Rights, composed of sixteen sections, every one of which, in substance, afterward found a place in the Declaration and the Constitution. The sixteenth section, in part, reads thus:—

"That *religion, or the duty which we owe to our Creator, and the manner of discharging it*, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience."

July 4 following, the Declaration of Independence was made, wherein this principle is embodied in the statement

that "governments derive their just powers from the consent of the governed."

Governments deriving their just powers from the consent of the governed can never of right exercise any power not delegated by the governed. Now *religion*, pertaining solely to man's relationship to God, to the duty which man owes to his Creator, and the manner of discharging it, in the nature of things can never be delegated to another.

It is utterly impossible for any person ever, in any degree, to transfer to another any of his relationship to God, or any duty which he owes to his Creator, or the manner of discharging that duty. Man's relationship to God originates not with himself, but with the Lord; it springs not from himself but from the Lord. The duty which man owes to his Creator, and the manner of discharging it, spring not from himself, but from the Lord. These are not dictated nor defined by himself, but wholly by the Lord. Here man is subject, not sovereign. None of these things then springing from himself, but all from the Lord, none of them could he delegate if he would. Even to attempt it would be only to deny God and renounce religion, and even then the thing would not be done — his relationship to God, the duty which he owes to his Creator, and the manner of discharging it, would remain, as firmly fixed and as binding upon himself as ever. Under the Declaration of Independence, therefore, the government of the United States can never have anything to do with religion.

This is precisely the view that was taken, and the use that was made of the Declaration as soon as it was published to the world. For no sooner was the Declaration published abroad than the Presbytery of Hanover, in Virginia, openly took its stand with the new and independent nation, and, with the Baptists and Quakers, addressed to the General Assembly of Virginia a Memorial, from which we extract the

following passages, as particularly pertinent to the matter here to be considered : —

" Now, when the many and grievous oppressions of our mother country have laid this continent under the necessity of casting off the yoke of tyranny, and of forming independent governments upon equitable and liberal foundations, we flatter ourselves that we shall be freed from all the encumbrances which a spirit of domination, prejudice, or bigotry has interwoven with most other political systems.

" This we are the more strongly encouraged to expect by the Declaration of Rights, so universally applauded for that dignity, firmness, and precision with which it delineates and asserts the privileges of society, and the prerogatives of human nature, and which we embrace as the Magna Charta of our commonwealth, that can never be violated without endangering the grand superstructure it was designated to sustain. Therefore we rely upon this Declaration, as well as the justice of our honorable Legislature, to secure us the free exercise of religion according to the dictates of our consciences.

" In this enlightened age, and in a land where all of every denomination are united in the most strenuous efforts to be free, we hope and expect that our representatives will cheerfully concur in removing every species of religious as well as civil bondage. Certain it is that every argument for civil liberty gains additional strength when applied to liberty in the concerns of religion ; *and there is no argument in favor of establishing the Christian religion but may be pleaded, with equal propriety, for establishing the tenets of Mohammed* by those who believe the Alcoran ; or, if this be not true, *it is at least impossible for the magistrate to adjudge the right of preference* among the various sects which profess the Christian faith, *without erecting a claim to infallibility*, which would lead us back to the Church of Rome.

" We beg leave farther to represent that *religious establishments are highly injurious to the temporal interests of any community*. . . . We would also humbly represent that the only proper objects of civil government are the happiness and protection of men in the present state of existence ; the security of the life, liberty, and property of the citizens, and to restrain the vicious, and encourage the virtuous by wholesome laws, equally extending to every individual ; but that *the duty which we owe to our Creator, and the manner of discharging it*, can only be directed by reason and conviction, and *is nowhere cognizable but at the tribunal of the Universal Judge*.

" Therefore, we ask no ecclesiastical establishments for ourselves ; neither can we approve of them when granted to others. This, indeed,

would be giving exclusive or separate emoluments or privileges to one set of men, without any special public services, to the common reproach and injury of every other denomination. And for the reasons recited, we are induced earnestly to entreat that all laws now in force in this commonwealth which countenance religious domination, may be speedily repealed ; that all of every religious sect may be protected in the full exercise of their several modes of worship ; exempted from all taxes for the support of any church whatsoever, farther than what may be agreeable to their own private choice or voluntary obligation. This being done, all partial and invidious distinctions will be abolished, to the great honor and interest of the State, and every one be left to stand or fall according to his merit, which can never be the case so long as any one denomination is established in preference to others."

Thomas Jefferson supported the Memorial, and, after what he pronounced "the severest contest in which he was ever engaged," a law was passed, Dec. 6, 1776, totally disestablishing the Episcopal Church in Virginia.

Immediately following this a powerful effort was made to establish *the Christian religion*, without reference to any particular denomination, by levying a general tax for the support of teachers of the Christian religion. Against this also the Presbytery of Hanover, with the Baptists and Quakers, earnestly protested. Another Memorial was presented to the Assembly, in which attention was called to the principles laid down in the previous Memorial, and some additional arguments were made, of which the following passages are pertinent here : —

"To illustrate and confirm these assertions, we beg leave to observe that, to judge for ourselves, and to engage in the exercise of religion agreeably to the dictates of our own consciences, *is an inalienable right, which, upon the principles on which the gospel was first propagated, and the Reformation from papacy carried on, can never be transferred to another.* . . . In the fixed belief of this principle, that the kingdom of Christ and the concerns of religion are beyond the limits of civil control, we should act a dishonest, inconsistent part were we to receive any emoluments from human establishments for the support of the gospel."



Then, after reciting some of the evil consequences which must inevitably flow from such a condition of things, the Memorial closed with these weighty words : —

"These consequences are so plain as not to be denied, and they are so entirely subversive of religious liberty that, if they should take place in Virginia, we should be reduced to the melancholy necessity of saying with the apostles in like cases, 'Judge ye whether it is best to obey God or men,' and also of acting as they acted. Therefore, as it is contrary to our principles and interest, and, as we think, *subversive of religious liberty*, we do again most earnestly entreat that our Legislature would never extend any assessment for religious purposes to us, or to the congregations under our care."

By "strenuous efforts" this attempt to establish "the Christian religion" was defeated in 1779, though the bill reached the point where it was ordered to a third reading. The events of the war prevented any further attempt in this direction till the war was over.

No sooner had peace returned, however, than a stronger effort than any before was made to accomplish this object, in an attempt to pass "A Bill Establishing a Provision for Teachers of the Christian Religion." Patrick Henry led in favor of the bill. Jefferson and Madison led the opposition. It became evident that, in spite of all opposition, the bill would pass if it came to a vote. To escape this Jefferson and Madison succeeded in carrying a motion to postpone the whole subject to the next General Assembly, and meantime to have the bill printed and generally circulated. As soon as this motion had been carried, Madison wrote a Remonstrance, to be presented to the next General Assembly, against the bill. This remonstrance was printed, and circulated, and discussed much more widely than was the bill which it opposed. It is one of the grandest public documents that ever was written. It ought to be learned by heart by every person in the United States. In this place we can quote but a few passages from it. And here they are : —

"We remonstrate against the said bill —

"1. Because we hold it for a fundamental and undeniable truth that religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence. The religion, then, of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate. This right is, in its nature, an unalienable right. It is unalienable because the opinions of men, depending only on the evidence contemplated in their own minds, cannot follow the dictates of other men. It is unalienable, also, because what is here a right towards men is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of civil society. Before any man can be considered a member of civil society, he must be considered as a subject of the Governor of the universe; and if a member of civil society who enters into any subordinate association must do it with a reservation of his duty to the general authority, much more must every man who becomes a member of any particular civil society do it with a saving of his allegiance to the Universal Sovereign. We maintain, therefore, that in matters of religion no man's right is abridged by the institution of civil society, and that *religion is wholly exempt from its cognizance.*"

"3. Because it is proper to take alarm at the first experiment upon our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled itself in precedents. *They saw all the consequences in the principle, and they avoided the consequences by denying the principle.* We revere this lesson too much soon to forget it. *Who does not see that the same authority which can establish Christianity, in exclusion to all other religions, may establish with the same ease any particular sect of Christians in exclusion of all other sects?* that the same authority which can force a citizen to contribute threepence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever.

"5. Because the bill implies either that the civil magistrate is a competent judge of religious truths, or that he may employ religion as an engine of civil policy. The first is an arrogant pretension, falsified by the contradictory opinions of rulers in all ages and throughout the world; the second, an unhallowed perversion of the means of salvation.

"7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of religion, have had the con-

trary operation. During almost fifteen centuries, has the legal establishment of Christianity been on trial. What have been its fruits? — More or less, in all places, pride and indolence in the clergy, ignorance and servility in the laity; *in both, superstition, bigotry, and persecution.*

"9. Because the proposed establishment is a departure from that generous policy which, offering an asylum to the persecuted and oppressed of every nation and religion, promised a luster to our country, and an accession to the number of our citizens. What a melancholy mark is the bill, of sudden degeneracy! Instead of holding forth an asylum to the persecuted, *it is itself a signal of persecution.* It degrades from the equal rank of citizens all those whose opinions do not bend to the legislative authority. Distant as it may be in its present form from the Inquisition, *it differs from it only in degree. The one is the first step, the other is the last, in the career of intolerance.* The magnanimous sufferer of this cruel scourge in foreign regions must view this bill as a beacon on our coast, warning him to seek some other haven, where liberty and philanthropy, in their due extent, may offer a more certain repose from his troubles.

"11. Because it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with religion has produced among its several sects. Torrents of blood have been spilt in the Old World in consequence of the vain attempts of the secular arm to extinguish religious discord by proscribing all differences in religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American theater has exhibited proofs that equal and complete liberty, if it does not wholly eradicate it, sufficiently destroys its malignant influence on the health and prosperity of the State. If, with the salutary effects of this system under our own eyes, we begin to contract the bounds of religious freedom, we know no name which will too severely reproach our fall. At least, let warning be taken at the first fruits of the threatened innovation. . . . What mischiefs may not be dreaded, should this enemy to the public quiet be armed with the force of law?

"Because, finally, 'the equal right of every citizen to the free exercise of his religion, according to the dictates of conscience,' is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us; if we consult the declaration of those rights 'which pertain to the good people of Virginia as the basis and foundation of government,' it is enumerated with equal solemnity, or, rather, with studied emphasis. Either, then, we must say that the will of the Legislature is the sole measure of their authority, and that in the plenitude of that authority they may sweep away all our fundamental rights, or that they are bound to leave this particular right

untouched and sacred. Either we must say that they may control the freedom of the press, may abolish the trial by jury, may swallow up the executive and judiciary powers of the State, nay, that they may despoil us of our very right of suffrage and erect themselves into an independent and hereditary assembly, or we must say that they have no authority to enact into a law the bill under consideration."

The direct result of this incomparable remonstrance was that the iniquitous bill to which it was opposed was overwhelmingly defeated, and in its stead there was passed, Dec. 26, 1785, "An Act for Establishing Religious Freedom," written by Thomas Jefferson; and which, with a portion of the preamble, runs as follows:—

"Well aware that almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercion on either, as was in his almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such, endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; . . . that our civil rights have no dependence on our religious opinions, more than on our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to the offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow-citizens, he has a natural right; . . . that to suffer the civil magistrate to intrude his powers into the field of opinion and to constrain the profession or propagation of principles, on the supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he, being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others as they shall square with or differ from his own. . . .



"Be it therefore enacted by the General Assembly: 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; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in nowise diminish, enlarge, or affect their civil capacities."

"And . . . we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural right."

Such is the origin and the history of the establishment of religious freedom as a *natural right* in the United States; for these principles, in many cases in these very words, have found a place in all the Constitutions of the several States of the American Union.

This also is the origin of religious freedom as a *Constitutional right* under the government of the United States. For, while this contest was being carried on in Virginia, steps were being taken toward the formation of a federal government for the several States which had established their independence of Great Britain. This was finally accomplished by the framing of the present national Constitution, without the Amendments. In this James Madison did more than any other one, except perhaps George Washington; and the contest in Virginia, by which there had been severed the illicit and corrupting connection between religion and the State, had not only better fitted both Madison and Washington for this work, but had awakened the public mind, and in both points had prepared the way for the formation of a Constitution which would pledge the national government to a complete separation from religion.

Accordingly, the Constitution, as originally proposed by the convention, declared on this subject that —

"No religious test shall ever be required as a qualification to any office or public trust under the United States."

This, however, was not allowed by the people of the States to be a sufficient guaranty of religious right. Several of the States which approved the Constitution as proposed, did so only with the proposal of an amendment more fully securing freedom of religion. And with those States which did not approve it, one of their strongest objections was that it did not sufficiently secure religious rights. In the debate on this point in the Virginia Convention, Madison gave the assurance that —

*"There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a most flagrant usurpation. I can appeal to my uniform conduct on this subject, that I have warmly supported religious freedom. It is better that this security should be depended upon from the general Legislature, than from one particular State. A particular State might concur in one religious project."*

Nevertheless, Virginia, with several of the other States, proposed an amendment on this subject. As the outcome of all these proposed amendments, the first Congress that ever met under the Constitution framed the first Amendment, and it was adopted as it now reads: —

*"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."*

This was in 1789, and in the last year of Washington's presidency — 1797 — he made and signed with his own hand a treaty in which it is declared that —

*"The government of the United States is not, in any sense, founded on the Christian religion."*

Not being in any sense founded on the Christian religion, it is evident that it is not in any sense founded on any re-

ligion at all. And this statement is as certainly a part of the supreme law of the nation as is any part of the Constitution, as Article VI plainly declares that —

*"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."*

Thus the natural right of mankind to freedom from governmental interference or dictation in matters of religion was made a *constitutional right* under the government of the United States.

And thus have the people of the United States expressed in the supreme law of the land their will that the government of the United States is, and of right ought to be, FREE AND INDEPENDENT OF ALL ECCLESIASTICAL OR RELIGIOUS CONNECTION, INTERFERENCE, OR CONTROL.

#### THE SUPREME COURT DECISION.

Now we are prepared to consider the decision of the Supreme Court of the United States, and the acts of Congress before mentioned. This preliminary discussion was necessary in order that it may be clearly seen how completely this whole history has been ignored, how entirely every one of these principles has been subverted, and how certainly these precepts of the supreme law has been overridden, in the Supreme Court decision of Feb. 29, 1892, and in the acts of Congress closing the World's Fair on Sunday.

The said decision, which we notice first, was called out in this way: In 1887 Congress enacted a law forbidding any aliens to come to this country under contract to perform labor or service of any kind. The reason of that law was that large contractors in the United States, and corporations who wanted to increase their wealth with as little expense as

possible, would send agents to Europe to employ the lowest of the people whom they could get, to come over and work. They would pay their expenses over, and allow them to work it out at very small wages after they got over here. This was depreciating the price that Americans should receive for their labor, and therefore Congress enacted a law as follows:—

*“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, expressed or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia.”*

Trinity corporation, in New York City, hired a preacher in England to come over here and preach for them. They contracted with him before he came. He was an alien, and came over under contract to perform service for that church. The United States District Attorney entered suit against the church for violating this law. The United States Circuit Court decided that the church was guilty, and rendered judgment accordingly. An appeal was taken to the Supreme Court of the United States, upon writ of error.

The Supreme Court reversed the decision, *first* upon a well-established principle that “the intent of the lawmaker is the law.” The court quoted directly from the reports of the Senate Committee and the House Committee who had the bill in charge when it was put through Congress; and these both said in express terms that the term “laborer,” or “labor or service,” used in the statute, was intended to mean only *manual* labor or service, and not *professional* service of any kind. Therefore, that being the intent, and the only intent of the law, and the intent of the lawmaker being the



law, the Supreme Court reversed the decision of the lower court, and said that the act complained of was not a violation of the law.

So far as this goes, the decision is perfectly proper; and *needed to have gone no further*, as the only point in the case was here fully decided.

But between this paragraph and the closing paragraph of the decision, there is brought in and made an essential part of the decision, a mass of matter not only totally irrelevant to the case, but wholly beyond the rightful jurisdiction or the proper cognizance of the court. A mere glance at the document is sufficient for any one to see that this part of the decision is entirely out of place; while a study of the document can only create astonishment as to how in the world that part of it ever could have got there, and the more it is studied the more the astonishment will be increased.<sup>1</sup>

In this part of the decision the court cites "historical" evidence by which it establishes the Christian religion as the national religion; justifies the use of the civil power to maintain the discipline of the churches; a religious test oath as a qualification for office; general taxation for the support of "public Protestant teachers of piety, religion, and morality;" the governmental requirement of a belief in the doctrine of the Trinity and the inspiration of the Scriptures of the Old and

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<sup>1</sup> Among the legal fraternity there is a disposition to pass this part of the decision by, as mere *obliter dicta*, having no real force or effect in law. But there is not a particle of evidence to show that it is such or that the court intended it as such. It is said, however, that it must be so "because it is unnecessary and irrelevant." But the court has considered it both necessary and relevant, and has given no hint or token to the contrary. It is a second clearly-defined line of reasoning (?) which the court has followed and has *used*, by which, with the former, it reversed the decision of the court below. And, so far as the document itself goes, it is just as much a part of the real intentional decision of the court as is the first line of reasoning which is followed. Besides this the statements are too positive and too sweeping for mere *obliter dicta*. Yet even though it were *dicta*, and were stated to be such, its evil effect would not be destroyed; for in the State of Tennessee to-day, that which was plainly set forth by the United States Circuit Court as *dicta* only, is being used, and has been used, as authority under which to carry on a systematic course of religious persecution. (See the decision in full at the end of this pamphlet.)

New Testaments; and then without a break quotes the Constitution of the United States, in which religious legislation and religious establishments are positively prohibited, and flatly declares:—

“There is no dissonance in these declarations.(!!) There is a universal language pervading them all, having one meaning.(!!!) They affirm and reaffirm that this is a religious nation.”

Now as we call up in succession these “historical” evidences, and it is seen what they say and what they mean, let it be borne in mind that, according to the view of the Supreme Court of the United States, the Constitution of the United States *means the same thing*.

After reviewing the act of Congress in question, the reports of committees, etc., and deciding that the law has no such intent as the lower court gave it, the Supreme Court introduces this part of the decision in these words:—

“But beyond all these matters, no purpose of action against religion can be imputed to any legislation, State or national, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation.”

Every citizen of the United States knows that it is *not* true, either historically or otherwise, that this is a religious people. Not even a majority of the people are religious. There is not a single city in the United States in which the people are religious — no, not a single town or village.

*That is to say*, this was so up to the time of the rendering of this decision, Feb. 29, 1892; since that, of course the people are religious because the Supreme Court says so. To be sure, some of our neighbors, and many other people whom we meet, do not know that they are religious people, as they have never chosen to be so and do not profess it at all; but all that makes no difference; the Supreme Court of the United States has by unanimous decision declared that

they are religious people, and it must be so whether they know it or not. Nor is this all. The court not only declares that this is a "*religious* nation," but that it is a "*Christian* nation." The people, therefore, are not only religious but they are Christians — yes, Jews, infidels, and all. For is not the Supreme Court the highest judicial authority in the United States? and what this court declares to be the law, isn't that the law? and when this court lays it down as the supreme law that people are religious, and are Christians, then doesn't that settle the question? — Not much. The very absurdity of the suggestion only demonstrates that the court can have nothing at all to do with any such matters, and shows how completely the court has transcended its powers and gone out of the right way. No; men are not made religious by law, nor by judicial decision, nor by historical precedents.

The statement that "from the discovery of this continent to the present hour there is a single voice" making the affirmation that this nation is a religious people, is equally wide of the mark. For at the time of the making of this national government there was a new, fresh voice heard contradicting the long, dismal monotone of the ages, and declaring for this new nation that it "is not *in any sense* founded upon the Christian religion," and that it can never of right have anything to do with religion. And this voice it was which gave rise to the "new order of things" for this country and for the world. Has the court never heard this voice?

After this deliverance the court proceeds to cite historical evidences to prove the proposition that this is a "religious people" and a "Christian nation." The first is as follows: —

"The commission to Christopher Columbus, prior to his sail westward, is from 'Ferdinand and Isabella, by the grace of God, king and queen of Castile,' etc., and recites that, 'it is hoped by God's assistance some of the continents and islands in the ocean will be discovered,' etc."

What religion did Ferdinand and Isabella have in mind when they issued that document? What religion did they profess? And what religion did they *possess*, too?—The Catholic religion, to be sure. And not only that, it was the Catholic religion with the Inquisition in full swing, for it was Ferdinand and Isabella who established the Inquisition in Spain under the generalship of Torquemada, and who, because Spain was a “Christian nation,” sentenced to confiscation of all goods, and to banishment, every Jew who would not turn Catholic. And by virtue of such religious activity as this, Ferdinand and Isabella fairly earned as an everlasting reward, and by way of pre-eminence, the title of “THE CATHOLICS.” And this is the first piece of “historical” authority by which the Supreme Court of the United States adjudges American citizens “to be a religious people,” and by which that court decides that this is a “Christian nation.”

Now that is quoted to prove that this is a “religious people” and a “Christian nation;” and it is declared that the language of Ferdinand and Isabella, and the language of the Constitution of the United States, “have one meaning.”

Then in view of that quotation and this decision, should it be wondered at if the Catholic Church should claim that this is so indeed, and should demand favors from the government as such? Everybody knows that the Catholic Church already is not slow to take part in political questions, to interfere with the government, and to have the government recognize the Catholic Church and give it every year from the public treasury nearly four hundred thousand dollars of the money of all the people. The people know that this is already the case. And now, when the Catholic religion is virtually recognized by official action of the Supreme Court; and when that court declares that this is what the Constitution means, should it be thought strange if the Catholic Church should claim that that is correct. and act upon it?



It is true, the court does not stick to this side of the question all the way through, but turns over to the Church of England, and to Puritan Protestantism. But this intensifies rather than modifies the danger, as it opens the way for a strife among these religions, to see which shall be indeed the religion of the nation.

As the intentions of Ferdinand and Isabella did not reach the part of the continent now occupied by the government of the United States, the court next proceeds to introduce documents by which it would give to Protestantism the prior right here, and which do in fact make this the national religion; so we quote:—

"The first colonial grant, that made to Sir Walter Raleigh in 1584, was from 'Elizabeth, by the grace of God; of England, France, and Ireland, queen, Defender of the Faith,' etc.; and the grant authorized him to enact statutes for the government of the proposed colony; *Provided*, That, 'they be not against the true Christian faith now professed in the Church of England.' . . . Language of a similar import may be found in the subsequent charters, . . . and the same is true of the various charters granted to other colonies. In language more or less emphatic, is the establishment of the Christian religion declared to be one of the purposes of the grant."

This establishes as the religion of this nation and people the religion "professed in the Church of England" in Queen Elizabeth's time.<sup>1</sup> What religion was this? The queen's title of "Defender of the Faith" will help us to understand this. That title was obtained in this way: Henry VIII, Elizabeth's father, wrote a book against Martin Luther and the Reformation. He sent a copy of this book to the pope. In return, the pope bestowed upon him the title and dignity of "Defender of the Faith." And this was the Catholic faith. Shortly afterward Henry wanted a divorce from his wife. The pope could not make his political ends meet so as

<sup>1</sup> It may very properly be noted here, in passing, that this and the previous quotation, just as certainly prove the divine right of rulers in this country, as they prove that this is "a religious people" or "a Christian nation."

to grant the divorce; and Henry took the matter into his own and Cranmer's hands, and divorced both his wife and the pope. This separated the church in England from the Catholic Church. Then that which had formerly been the Catholic Church *in* England, became the Church *of* England, the only difference being that Henry was head of the church instead of the pope. Thus Henry still maintained his title of "Defender of the Faith," and it was the same faith — except only as to the head of it.

Under Edward VI a few very slight steps were taken farther away from the absolute Catholic faith. Under Mary a powerful effort was made to bring all back into full harmony with the papal religion. Mary soon died, and Elizabeth succeeded, and would have been glad to complete Mary's scheme, but, as she was more of a politician than she was a Catholic, she submitted to be content with things as they were left by Edward, for the nation and people, while, in her own private individual life, she inclined strongly to the papal religion outright. So the sum of the matter is that the religion professed in the Church of England in queen Elizabeth's time was a religion which was just as near to the Roman Catholic religion as was possible without being precisely that religion.

And this is the religion which the Supreme Court of the United States finds to be historically intended to be established here, and which by this decision the court declares now to be established here, according to the meaning of the Constitution of the United States; because the language of the Constitution and the language of all these other documents *is one language*, "having one meaning." It is to be expected also that the religion established should be as much like the papal religion as possible, without being precisely that religion itself, as the prophecy says that it would be said that they should make an image to the beast—the papacy. Rev. 13: 14.

It is true that "the establishment of the Christian religion was one of the purposes" of all these grants. But are the American people still bound by the purposes and intentions of queen Elizabeth and her British successors? Does Britain still rule America, that the intent and purposes of British sovereigns shall be held binding upon the American people? Is it possible that the Supreme Court of the United States knows nothing of the American Revolution and the Declaration of Independence, by which it was both declared and demonstrated that these Colonies are and of right ought to be free and independent States — free and independent of British rule, and of the intents and purposes of British sovereigns in all things, religious as well as civil?

It is true that "the establishment of the Christian religion was one of the purposes" of these grants. But shall the Constitution of the United States count for nothing, when it positively prohibits any religious test, and any establishment of religion of any kind? Shall the supreme law of this nation count for nothing in its solemn declaration that "the government of the United States is not in any sense founded on the Christian religion"? Has the Supreme Court of the United States the right to supplant the supreme law of this land with the intents and purposes of the sovereigns of England? Is the Supreme Court of the United States the interpreter of the supreme law of the United States? or is it the interpreter of the intents and purposes of the sovereigns of England, France, and Ireland, "Defenders of the Faith"? Are the people of the United States the subjects of Great Britain? or are they free American citizens?

Yet the court does not propose to be partial, nor presume to establish strictly this particular phase of religion without giving any other any chance for recognition. It proceeds next to introduce Puritanism, as follows:—

"The celebrated compact made by the Pilgrims in the *Mayflower*, 1620, recites:—

"Having undertaken for the glory of God and Advancement of the Christian faith, and the honor of our King and Country, a Voyage to plant the first colony in the northern part of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid."

Having thus established what it chooses to declare to be "the Christian faith" as the religion of this nation, the court next proceeds to cite historical evidence that it is legitimate to use the civil power to maintain "the discipline of the churches." This is done by citing the compact of the Puritans who settled Connecticut, as follows:—

"Forasmuch as it hath pleased the Almighty God by the wise dispensation of his diuine prudence so to order and dispose of things that we the inhabitants and residents of Windsor, Hartford, and Wethersfield are now cohabiting and dwelling in and upon the River Conectecotte and the Lands thereunto adioyneing; and well knowing where a people are gathered together, the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Gouernment established according to God, to order and dispose of the affayres of the people at all seasons as occasion shall require; doe therefore assotiate and conioyne ourselves to be as one publike State or Comonwelth; and doe, for ourselves and our successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation together, to mayntayne and presearue the liberty and purity of the gospell of our Lord Jesus wch we now prfesse, as also the disciplyne of the churches, wch according to the truth of the said gospell is now practised amongst vs."

By this "historical" citation, the Supreme Court just as certainly justifies the employment of the "civil body politick" for the maintenance of "the disciplyne of the churches," as by this and the previous ones it establishes the Christian religion as the religion of this nation. For it was just as much and as directly the intention of those people to maintain the discipline of the churches as it was to "preserve the liberty and purity of the gospel then practiced" among them. Indeed, it was only by maintaining the discipline of the churches that they expected to preserve



religion as practiced thus. And all know how thoroughly this was done. And this decision declares that the language of this citation and the language of the national Constitution is "one language," "having one meaning"!

By this, therefore, the Supreme Court has decided that the civil power, even of the United States government, can rightly be employed to maintain the discipline of the churches. And this, as we know, and have shown over and over again, is exactly what the churches are aiming to bring about by the national enforcement of Sunday laws. This is precisely what is done by the enforcement of Sunday laws, either State or national. And this the decision of the Supreme Court fully sanctions and justifies by its decision, and its (mis)interpretation of the national Constitution.

So far, therefore, in this decision we find a national religion established with the sanction of the maintenance of the discipline of the churches by the civil power. What next?—Why, the requirement of the religious oath of witnesses, and the religious test oath as a qualification for office. After citing William Penn's grant of privileges to the province of Pennsylvania and the Declaration of Independence, in which "the Creator," "the Supreme Judge of the world," and "Divine Providence," is referred to; and the Constitution of Illinois, in which God is recognized, the court quotes from the Constitution of Maryland, establishing the legality of the religious oath and the religious test oath as follows:—

"That as it is the duty of every man to worship God in such manner as he thinks most acceptable to him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice, unless, under the color of religion, he shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of wor-

ship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief; *Provided he believes in the existence of God*, and that, *under his dispensation*, such person will be held morally accountable for his acts, and be rewarded or punished therefor, *either in this world or the world to come.*"

"Provided he believe in the existence of God." That is, in other words, no man ought to be interfered with in his profession or principles of religious belief, *provided* he holds these according to the dictates of the State. That has been the practice in all the history of the Catholic Church. It is the very doctrine of the papacy. It was also the doctrine of pagan Rome, before the papacy supplanted it. Paganism declared that "no man shall have particular gods of his own, except they are recognized by the laws of the State." But the court continues this quotation; providing further:—

"That no religious test ought ever to be required as a qualification for any office of profit or trust in this State, *other than a declaration of belief in the existence of God*; nor shall the Legislature prescribe any *other* oath of office than the oath prescribed by this Constitution."

That is the provision and the requirement of the Constitution of Maryland. But, says the Supreme Court, that speaks the same language as the Constitution of the United States, and the Constitution of the United States and this quotation have "one meaning." And although the Constitution of the United States positively declares that no religious test shall ever be required as a qualification for any office or public trust under this government, this decision says that it *means* that no *other* religious test shall ever be required than "belief in the existence of God," and that he will reward or punish in this world or *the world to come*, for these documents "all" have "one language" and "one meaning."

So, then, we find that so far this decision establishes a national religion and justifies the maintenance of the discipline of the churches by the civil power, the requirement of the religious oath in court, and the religious test oath as

a qualification for office. And what next? — Why public taxation for the support of religion. This is justified by a quotation from the Constitution of Massachusetts, as follows : —

"It is the right as well as the duty of all men in society, publicly and at stated seasons, to worship the Supreme Being, the great Creator and Preserver of the universe. . . . As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion, and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall ["shall," not *may*] from time to time authorize and require the several towns, parishes, precincts, and other bodies politic or religious societies to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenances of public Protestant teachers of piety, religion, and morality in all cases where such provision shall not be made voluntarily."

And says the court, This document and the Constitution of the United States have the same language, have "one meaning," and both alike, with all the other quotations, "speak the voice of the entire people." So far, then, by this decision there is established here a national religion; with this there is justified the maintenance of the discipline of the churches by the civil power; the requirement of the religious oath and the religious test oath, and public taxation for "the worship of God," and for the "support and maintenance of public Protestant teachers of religion." The wicked thing rapidly grows as it goes.

But what next? — Why, the requirement of all officers, of a belief in the doctrine of the Trinity and the inspiration of the Scriptures. This is justified by a quotation from the Constitution of Delaware of 1776, as follows : —

"I, A. B., do profess faith in God the Father, and in Jesus Christ his only Son, and in the Holy Ghost, one God, blessed forevermore; and I do

acknowledge the Holy Scriptures of the Old and New Testaments to be given by divine inspiration."

And the doctrine that is held all through the decision, that this thing and the Constitution speak the same language and have one meaning, is just at this point emphasized in the following words: —

"Even the Constitution of the United States, which is supposed to have little touch upon the private life of the individual, contains in the First Amendment a declaration common to the Constitutions of all the States, as follows: 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.' And also provides that the Executive shall have ten days (Sundays excepted) within which to determine whether he will approve or veto a bill. [And here is a sly recognition of Sunday observance as constitutional.] *There is no dissonance in these declarations.* There is a *universal language* pervading them all, *having one meaning*; they affirm and re-affirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are *organic utterances*; *they speak the voice of the entire people.*"

How the court could present such a string of quotations, every one of which distinctly contemplated an establishment of religion and the prohibiting the free exercise thereof, and then quote this clause of the national Constitution, which in every feature and every intent, absolutely prohibits any establishment of religion, and any interference with the free exercise thereof—how the court could do this thing and then declare that "there is no dissonance" in the declarations, that they all have the same language, and "one meaning," is a most astonishing thing. If such a thing had been done by any of the common run of American citizens, it could have been considered as nothing less than wildly absurd; but coming as it does from such a source as the Supreme Court of the whole nation, it is as far worse as could be possible. To say that it is absurd is not enough, it is simply preposterous. And yet, preposterous as it is, it is expected to, and, so far as the great mass of the people are concerned, it undoubtedly will, carry with it all the weight of national law.



But the decision does not stop even here. Having established a religion for "the entire people," and sanctioned all the appurtenances thereto, the court cites and sanctions the declaration of the Supreme Court of Pennsylvania, that "Christianity is, and always has been, part of the common law," and then proceeds to establish the doctrine that it is blasphemy to speak or act in contempt "of the religion professed by almost the whole community." And this is done by citing the pagan decision of Chief Justice Kent, of New York, which "assumes that we are a Christian people."

There remains but one thing more to complete the perfect likeness of the whole papal system, and that is the direct and positive sanction of Sunday laws. Nor is this one thing lacking. It is fully and completely supplied. As before observed, it is broadly hinted at in the quotation last made above. But the court does not stop with that; it makes Sunday laws one of the "organic utterances," which prove conclusively that "this is a Christian nation." The words of the court are as follows:—

"If we pass beyond these matters to a view of American life as expressed by its laws, its business, its customs, and its society, we find everywhere a clear recognition of the same truth. Among other matters, note the following: The form of oath usually prevailing, concluding with an appeal to the Almighty; the custom of opening sessions of all deliberative bodies, and most conventions, with prayer; the prefatory words of all wills, 'In the name of God, Amen;' *the laws respecting the observance of the Sabbath* with the general cessation of all secular business, and the closing of courts, legislatures, and other similar public assemblies on that day. . . . These, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of *organic utterances* that THIS IS A CHRISTIAN NATION."

Now let us sum this up and see what has been done: There is a national religion established, and it is called Christianity and Protestantism. With this there is also specifically declared and justified *as the meaning of the Constitution of the United States*, (1) the maintenance of the discipline of the churches by the civil power; (2) the requirement of

the religious oath ; (3) the requirement of the religious test oath as a qualification for office ; (4) public taxation for the support of religion and religious teachers ; (5) the requirement of a belief in the Trinity and the inspiration of "holy Scriptures of the Old and New Testaments ;" (6) the guilt of blasphemy upon every one who speaks or acts in contempt of the established religion ; and (7) laws for the observance of Sunday, with the general cessation of all "*secular* business."

All this is declared by unanimous decision of the Supreme Court of the United States to be the meaning of the Constitution of the United States. This, too, to the utter oblivion of all the history of the making of that Constitution, in open contradiction of the specific terms of that Constitution, and in defiance of the clear intent of that Constitution, as declared in the supreme law by those who made it.

Now what was ever the papacy more than is this thing which is established and justified in and by this decision? What more was ever required by the papacy, and all phases of the old order of things, than is allowed and justified in this decision. What more was ever required by the papacy itself than that the "Christian religion" should be made the national religion ; that the discipline of the Church should be maintained by the civil power ; that the religious test oath should be applied to all ; that the public should be taxed for the support of religion and religious teachers ; that there should be required a belief in the doctrine of the Trinity and the inspiration of the "holy Scriptures of the Old and New Testaments ;" that the guilt of "blasphemy" should be inflicted upon every one who should speak or act "in contempt" of the established religion ;<sup>1</sup> and that everybody should be required by law to observe Sunday? No more than this was ever required by the papacy. And, in fact, no

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<sup>1</sup> It will not be amiss right here to recall the fact that Martin Luther, by an official edict issued by the Emperor Charles V, was made an outlaw in all Europe, because he had "sought to destroy the holy church by means of books *filled with blasphemy*."

more could be required, for this covers all. And by this decision all this is justified in this government, and is declared to be the meaning of the Constitution of the United States, — but in favor of Protestantism.

Here we would ask two questions, and inquire whether any one can have any difficulty in answering them: Does this decision maintain the "new order of things" to which this government and nation stand pledged by the Great Seal of the United States, or does it sanction and restore and establish *here* the old order of things, which our governmental fathers hoped we should forever escape?

What, then, is this but the legal establishment of the very likeness of the papacy, and that by the supreme judicial authority of the national government? What more could be done to make the likeness of the papacy, in the *principle* of the thing? In *principle*, we say, not in its positive workings, for *life* is not by this given to it that it should speak and act (Rev. 13 : 15) ; but so far as the *making* of the evil thing, and the establishment of the principle of it, the thing is done. The tree does not yet stand with its branches widespread bearing its pernicious fruit, but *the tree is planted*. And as certainly as the branches and the fruit are all in the natural stock that is planted, and it is only a question of time when they will appear, so certainly the widespreading branches and the pernicious fruit of the full-grown tree are in the evil stock of Church and State that has now been planted by the Supreme Court, in and for the government of the United States ; and it is only a question of time when these fruits will inevitably appear.

#### - HOW THE PAPACY WAS MADE.

It will be helpful at this point to take a glance at the making and establishment of that old order of things.

In the beginning of the fourth century there was in the Roman empire a powerful ecclesiastical organization, the leaders and managers of which were "only anxious to assert

the government as a kind of sovereignty for themselves.”—*Eusebius, Ecclesiastical History, book VIII, chapter 1*. While “it was the hope of every bishop in the empire to make politics a branch of theology,” “it was the aim of Constantine to make theology a branch of politics.” In an intrigue therefore with Constantine they succeeded in bartering to him their influence and power in theology for his in politics. As one of the very first fruits of this, Constantine was established in the rulership of one half of the Roman empire. Jointly with Licinius he then issued the Edict of Milan reversing the persecuting edicts of Diocletian, and granting “liberty and full freedom to the Christians to observe their own mode of worship,” granting, “likewise, to the Christians and to all, the free choice to follow that mode of worship which they may wish;” “that each may have the privilege to select and to worship whatsoever divinity he pleases;” and commanding that the churches and church property which had been confiscated by Diocletian should be restored to “the whole body of Christians,” “and to each conventicle respectively.”—*Id., book X, chapter 5*.

This was all just and proper enough, and innocent enough, in itself and on its face, *if that had been all there was to it*, but behind it there lay this ecclesiastical organization, ambitious to assert the government as a kind of sovereignty for itself, and that religio-political intrigue which had been entered into to feed and satisfy this ambition. This ecclesiastical organization likewise claimed to be the legitimate and only true representative and depositary of Christianity in the world—it was the Catholic Church. And no sooner had the Edict of Milan ordered the restoration of property *to the Christians* than it was seized upon and made an issue by which to secure the imperial recognition and the legal establishment of *the Catholic Church*.

The rule had long before been established that all who did not agree with the bishops of the Catholic Church were



necessarily heretics and not Christians at all; it was now claimed by the Catholic Church that therefore none such were entitled to any-benefit from the edict restoring property *to the Christians*. In other words, the Catholic Church disputed the right of any others than Catholics to receive property or money under the Edict of Milan, by disputing their right to the title of Christians. And by this issue the Catholic Church forced an imperial decision as to who were Christians. And, under the circumstances, by the power and influence which she held and by what she had already done with these in behalf of Constantine, it was a foregone conclusion, if not the concerted plan, that this decision would be in favor of the Catholic Church. Consequently Constantine's edict to the proconsul, contained these words: —

"It is our will that when thou shalt receive this epistle, if any of those things belonging to *the Catholic Church* of the Christians in the several cities or other places, are now possessed either by the decurions, or any others, these thou shalt cause immediately to be restored to their churches. Since we have previously determined that whatsoever *these same churches* before possessed should be restored to them."

Nor was it enough that the emperor should decide that all these favors were for "the Catholic Church of the Christians;" he was obliged next to decide *which was the Catholic Church*. This question was immediately raised and disputed, and in consequence an edict was drawn from Constantine, addressed to the same proconsul (of the province of Africa), in which were these words: —

"It is my will that these men, within the province intrusted to thee in the Catholic Church *over which Cæcilianus presides*, who give their services to *this* holy religion, and whom they commonly call clergy, shall be held totally free and exempt from all public offices," etc.

The party over which Cæcilianus presided in Africa was the party which was in communion with the bishop of Rome.

The other party then drew up a long series of charges against Cecilianus and sent them to the emperor with a petition that he would have the case examined by the bishops of Gaul. Constantine was in Gaul at the time, but instead of having the bishops of Gaul examine into the case alone, he commissioned three of them to go to Rome and sit with the bishop of Rome in council to decide the case. Constantine sent a letter, with copies of all the charges and complaints which had been lodged with him, and in this letter to *the bishop of Rome*, with other things he said this : —

“ Since it neither escapes your diligence that I show such regard for the holy Catholic Church that *I wish you, upon the whole, to leave no room for schism or division.*”

This council of course confirmed the emperor's word that the Catholic Church in Africa was indeed the one over which Cecilianus presided. The other party appealed from this decision and petitioned that another and larger council be called to examine the question. Another council was called, composed of almost all the bishops of Constantine's dominions. This council likewise confirmed the emperor's word and the decision of the former council. Then the opposing party appealed from the decision of the council to the emperor himself. After hearing their appeal, he sustained the action of the councils and re-affirmed his original decision. Then the opposing party rejected not only the decisions of the councils but the decision of the emperor himself.

Then Constantine addressed a letter to Cecilianus, bestowing more favor upon what he now called “ *the legitimate and most holy Catholic religion,*” and empowering him to use the civil power to compel the opposing party — the Donatists — to submit. This portion of his letter is in the following words : —

“ *Constantine Augustus to Cæcilianus, bishop of Carthage:*

“ As we have determined that in all the provinces of Africa, Numidia, and Mauritania, something should be granted to certain ministers of the

*legitimate and most holy Catholic religion to defray their expenses, I have given letters to Ursus, the most illustrious lieutenant governor of Africa, and have communicated to him that he shall provide to pay to your authority three thousand folles [about one hundred thousand dollars]. . . .*

*"And as I have ascertained that some men, who are of no settled mind, wished to divert the people from the most holy Catholic Church, by a certain pernicious adulteration, I wish thee to understand that I have given, both to the proconsul Anulinus and to Patricius, vicar general of the prefects, when present, the following injunctions: that, among all the rest, they should particularly pay the necessary attention to this, nor should by any means tolerate that this should be overlooked. Wherefore, if thou seest any of these men persevering in this madness thou shalt, without any hesitancy, proceed to the aforesaid judges, and report it to them, that they may animadvert upon them, as I commanded them, when present."*

Thus, no sooner was it decided what was "*the legitimate and most holy Catholic Church*," than the civil power was definitely placed at the disposal of that church, with positive instructions to use that power in compelling conformity to the new imperial religion. Persecution was begun at once. The Donatist bishops were driven out, and Constantine commanded that their churches should be delivered to the Catholic party. Nor was this done at all peacefully. "Each party recriminated on the other; but neither denies the barbarous scenes of massacre and license which devastated the African cities. The Donatists boasted of their martyrs; and the cruelties of the Catholic party rest on their own admission; they deny not, they proudly vindicate, their barbarities; 'Is the vengeance of God to be defrauded of its victims?'" they cried.—*Milman, History of Christianity, book III, chapter I, paragraph 5 from the end.*

*And the government by becoming a partisan had lost the power to keep the peace. The civil power, by becoming a party to religious controversy, had lost the power to prevent civil violence between religious factions.*

Nor was this thing long in coming. It all occurred within *less than four years*. The Edict of Milan was issued in the month of March, A. D. 313. Before that month ex-

pired the decision was rendered that the imperial favors were for the Catholic Church only. In the autumn of the same year—313—the first council sat to decide which was the Catholic Church. In the summer of 314 sat the second council on the same question. And in 316 the decree was sent to Cecilianus empowering him to distribute that money to the ministers of “the legitimate and most holy Catholic religion,” and to use the civil power to force the Donatists to submit to the decision of the councils and the emperor.

The Edict of Milan, March, 313, named “the whole body of Christians” as the beneficiaries, without any qualification or any sectarian designation. Before the expiration of that month, the provisions of the edict were confined to “the *Catholic Church* of the Christians” alone. In the autumn of the same year, when the emperor wrote to the bishop of Rome, appointing the first council, he defined the established church as “the *holy Catholic Church*.” The following summer, 314, when he called the second council, he referred to the doctrine of the Catholic Church as embodying the “*most holy religion*.” And when it had been decided which party represented this “most holy religion,” then in 316 his letter and commission to Cecilianus defined it as “the *legitimate and most holy Catholic religion*.”

Nor was this all. While this was going on, also about the year 314, the first edict in favor of Sunday was issued, though it was blended with “Friday.” It ordered that on Friday and on Sunday “no judicial or other business should be transacted, but that God should be served with prayers and supplications,” and in 321, Friday observance was dropped and Sunday alone was exalted by the famous Sunday-rest law of Constantine; all in furtherance of the ambition of the ecclesiastics to assert the government as a kind of sovereignty for themselves. In 323, by the direct and officious aid of the Catholic Church, Constantine succeeded



in defeating Licinius and making himself sole emperor. No sooner was this accomplished than the *religious liberty* assured to "the Christians" by the Edict of Milan, like the provisions of the same edict restoring confiscated property to the Christians, *was* by a public and express edict *limited to Catholics alone*. This portion of that decree runs as follows : —

"Victor Constantinus Maximus Augustus, to the heretics : Understand now, by this present statute, ye Novatians, Valentinians, Marcionites, Paulians, ye who are called Cataphrygians, and all ye who devise and support heresies by means of your private assemblies, with what a tissue of falsehood and vanity, with what destructive and venomous errors, your doctrines are inseparably interwoven ; so that through you the healthy soul is stricken with disease, and the living becomes the prey of everlasting death. . . .

"Forasmuch, then, as it is no longer possible to bear with your pernicious errors, we give warning by this present statute that none of you henceforth presume to assemble yourselves together. We have directed, accordingly, that you should be deprived of all the houses in which you are accustomed to hold your assemblies ; and our care in this respect extends so far as to forbid the holding of your superstitious and senseless meetings, not in public merely, but in any private house or place whatsoever. Let those of you, therefore, who are desirous of embracing the true and pure religion, take the far better course of entering the Catholic Church, and uniting with it in holy fellowship, whereby you will be enabled to arrive at the knowledge of the truth. . . .

"It is an object worthy of that prosperity which we enjoy through the favor of God, to endeavor to bring back those who in time past were living in the hope of future blessing, from all irregularity and error, to the right path, from darkness to light, from vanity to truth, from death to salvation. And in order that this remedy may be applied with effectual power, we have commanded (as before said), that you be positively deprived of every gathering point for your superstitious meetings ; I mean all the houses of prayer (if such be worthy of the name) which belong to heretics, and that these be made over without delay to the Catholic Church ; that any other places be confiscated to the public service, and no facility whatever be left for any future gathering ; in order that from this day forward none of your unlawful assemblies may presume to appear in any public or private place. Let this edict be made public."

Thus *in less than eleven years* from the issuing of the Edict of Milan, the Catholic Church stood in full and exclusive possession of the authority of the empire both in the rights of property and the right to worship under the profession of Christianity; and with a specific and direct commission to use that power and authority to compel the submission of "heretics." Thus was *made* the papacy — the beast of Revelation 13: 1-10 — and all that ever came in its career from that day to this has been but the natural and inevitable growth of the power and the prerogatives which were then possessed and claimed by the Catholic Church.

*And it all came from the Edict of Milan bestowing governmental favors upon "the Christians."* No man can fairly deny that in the Edict of Milan and the religio-political intrigue that lay behind it, there was contained the whole papacy. No man can successfully deny that the Edict of Milan, though appearing innocent enough upon its face, contained the whole papacy, or that the things that followed in the ten years up to 323, which we have sketched, were anything else than the logical and inevitable development of the evil that lay wrapped up in that.

Now here is a question that is worthy of the most serious consideration by the American people. If a thing appearing so just and innocent as does the Edict of Milan, could so easily be made to produce such a world of mischief in so short a time, and be a curse to the world forever after, what then can be the result of this decision of the Supreme Court of the United States *to the same purpose* as that, but which has not, in any sense, any appearance of justice or innocence?

#### THE AMERICAN PAPACY.

It may be replied by some that there is not here any ecclesiastical organization such as that one back there, to draw from this such results as were drawn from that. This would not answer the question, even though it were true.

But the fact is that there does exist here a most powerful ecclesiastical combination and organization which in its aims is identical with that one back there. Its leaders and managers have the same anxiety as had those "to assert the government as a kind of sovereignty for themselves." And it is the longing hope of every one of them to make politics a branch of theology in order more quickly to satisfy their ambition to assert the government as a kind of sovereignty for themselves. And this Supreme Court decision gives them precisely, in very word, the opening which they have all anxiously longed for and earnestly worked for all the way from four to twenty-nine years; so that the situation here now, under this decision, is identical in every way with the situation there at the issuing of the Edict of Milan, with the exception only of the difference in the governments, that being an absolute monarchy, and this a republic, but this difference is immaterial to the main issue.

This organization, in its leading and oldest form, is known as the National Reform Association. It was organized in 1863, for the sole purpose of securing such an amendment to the national Constitution as should declare this to be "a Christian nation," and so justify the enforcement of "Christian laws, institutions, and usages," and "Christian morality upon all." And the chief of all the laws, institutions, or usages, and the supreme test of the "Christian morality" which it seeks to enforce, is the observance of Sunday as the "Christian Sabbath." It has succeeded in drawing into close and practical alliance with itself, in order as they have arisen, the National Woman's Christian Temperance Union, the Third Party Prohibition party, and the American Sabbath Union; and in 1889, through the American Sabbath Union, it succeeded in forming a coalition with the Catholic Church itself, as a material aid to its soaring ambition. This organization has greeted the Supreme Court decision with joyful acclaim. The decision justifies and establishes in completest

measure just what this ecclesiastical combination has been working for so long. We shall present here a few short statements from this combination, which will show how they view this matter. In the *Christian Statesman* of June 25, 1892, one of the long-standing secretaries of the association said :—

“Is not this the time to remember that the United States Supreme Court has officially declared [in a document that reads as if largely gathered from the National Reform Manual] that this is a Christian nation ? ”

The *Pearl of Days*, the official organ of the American Sabbath Union, May 7, 1892, says that this decision —

“Establishes clearly the fact that our government is Christian. *This decision is vital to the Sunday question in all its aspects*, and places that question among the most important issues now before the American people. . . . And this important decision rests upon the fundamental principle that religion is imbedded in the organic structure of the American government — a religion that recognizes, *and is bound to maintain, Sunday as a day for rest and worship.*”

The *Christian Statesman* has always been the official organ of the National Reform Association, and is now the mouthpiece of the whole combination. In the issue of May 21, 1892, this paper says : —

“‘Christianity is the law of the land.’ ‘This is a Christian nation.’— *U. S. Supreme Court, February 29, 1892.* The Christian church, therefore, has rights in this country. Among these is the right to one day in seven protected from the assaults of greed, the god of this world, that it may be devoted to worship of the God of heaven and earth.”

And one of the very first uses that was ever made of the decision was when, in the month of April, 1892, the president of the American Sabbath Union took it in his hand and went before committees of the United States Senate and House of Representatives, recited its “argument” and demanded the closing of the World’s Fair on Sunday, by Congress, “because this is a Christian nation.”

And now in preparation for Thanksgiving day, the *Christian Statesman* of Nov. 19, 1892, comes out with the follow-



ing, which tells the whole of that part of the story. We print it just as it there appears, titles and all.

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CHRISTIAN POLITICS.

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THE SUPREME COURT DECISION.

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THE GREATEST OCCASION FOR THANKSGIVING.

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[Department edited by Wm. Wier, Washington, Pa., District Secretary of the National Reform Association.]

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"‘This is a Christian nation.’ That means Christian government, Christian laws, Christian institutions, Christian practices, Christian citizenship. And this is not an outburst of popular passion or prejudice. Christ did not lay his guiding hand there, but upon the calm, dispassionate supreme judicial tribunal of our government. It is the weightiest, the noblest, the most tremendously far-reaching in its consequences of all the utterances of that sovereign tribunal. And that utterance is for Christianity, for Christ. ‘A Christian nation!’ Then this nation is Christ’s nation, for nothing can be Christian that does not belong to him. Then his word is its sovereign law. Then the nation is Christ’s servant. Then it ought to, and must, confess, love, and obey Christ. All that the National Reform Association seeks, all that this department of Christian politics works for, is to be found in the development of that royal truth, ‘This is a Christian nation.’ It is the hand of the second of our three great departments of national government throwing open a door of our national house, one that leads straight to the throne of Christ.

“Was there ever a Thanksgiving day before that called us to bless our God for such marvelous advances of our government and citizenship toward Christ?

“‘O sing unto the Lord a new song, for he hath done marvelous things; his right hand and his holy arm hath gotten him the victory. Sing unto the Lord with the harp and the voice of a psalm.’

“WILLIAM WEIR.”

Now can any one suppose for a moment that this ambitious combination will let slip a single opportunity to take advantage of all that this decision grants, in principle and in substance, when it grants all that they ever asked? If any one is inclined to think so, let him bear in mind the fact that the “petitions” which this combination so persistently sent



to Congress for Sunday closing of the World's Fair have been so laden with threats of political and other punishments that even United States senators have been obliged, publicly and on the floor of the Senate, to resent it. If they do these things in a green tree, what shall be done in the dry?

Of course, just as soon as they get fairly started, controversies and disputes will arise by which there will be forced in some way, by election, by legislation, or by judicial fiat, a decision as to what particular phase of the Christian religion, or of Protestantism, shall be the national religion. "Old controversies which have apparently been hushed for a long time will be revived, and new controversies will spring up; new and old will commingle, and this will take place right early." And, as a matter of fact, the door is already wide open for this very thing, if the first steps have not actually been taken in the doing of it. This phase of the matter stands thus: In the first year of President Cleveland's first administration, 1885, his Commissioner of Indian Affairs announced that "the government should be liberal in making contracts with religious denominations to teach Indian children in schools established by those denominations. It should throw open the door and say to all denominations: 'There should be no monopoly of good works. Enter all of you, and do whatever your hands find of good work to do, and in your efforts the government will give you encouragement out of its liberal purse.'" The door was accordingly thrown open by the administration, and in walked the Catholic Church and fifteen denominations of professed Protestants, who all received "encouragement" at the following rate; For 1886, \$118,343 to the Catholics alone, and \$109,916 to all the others together. Throughout President Cleveland's administration this "encouragement" was kept up and steadily increased each year, until it stood for 1889, \$356,967 to the Catholic Church alone, and \$204,993 to all the others together.

Then President Harrison came in, with General Thomas J. Morgan as Commissioner of Indian Affairs, and proposed to put a stop to this whole system of things, and let the churches support their own church schools, and teach their church doctrines at their own expense. Yet Mr. Harrison's administration was obliged to confess openly in the U. S. Senate, by Senator Dawes, that "it found it impossible to do that." As it was found "impossible" to stop it altogether, they proposed to do the next best thing, and allow no increase of appropriations to any of the churches. Accordingly, in the annual estimates no recommendation was made beyond what had been taken the previous year, and which it was found impossible to stop. With this the "Protestant" denominations seemed to be satisfied. But the Catholic Church simply ignored the administration, and went direct to the Houses of Congress and got all the increase that she then wanted—four additional schools adopted with an aggregate of \$44,000 of "encouragement," making \$400,967 in all for the year 1890.

When the "Protestant" denominations found that the Catholic Church was getting increased "encouragement" when they could get no increase, they raised a cry of "raid upon the public treasury," and "perversion of public money to sectarian uses!" Their cry of "stop, thief" amounted to nothing, however. The Catholic Church proudly walked off with her \$44,000 clear in additional "encouragement." Through the whole of Harrison's administration these "Protestants" have kept up their cry of "stop, thief," and, with the administration against the whole of it, they were so successful as to reduce the appropriations to themselves by the amount of \$48,647 in the four years, and to the Catholic Church by \$31,432 in the same time. So that for the year 1892 the "encouragement" stands, \$156,346 to all the "Protestant" denominations, and \$369,535 to the Catholic Church.

This is not all, however. And in the rest of the story lies the increased peril, and the key of the situation as it exists at the close of 1892. The sequel, so far, is this: From the day that President Harrison announced the name of General Morgan as Commissioner of Indian Affairs, the Catholic Church has kept up a continual warfare upon Mr. Morgan; and as Mr. Morgan was still retained in his place, this warfare was thus indirectly against the administration. But as she could not accomplish her purposes against Harrison's administration, and as the presidential campaign came on with Mr. Cleveland, who had opened to her the public treasury, as the opposing candidate, she threw her influence in favor of Cleveland for President. The following editorial of the *New York Independent*, Sept. 1, 1892, states the facts as to this phase of the subject:—

“A STILL HUNT.

“A curious feature of the present campaign is the still hunt now in progress among the Catholics. Our readers know with what persistency the Bureau of Catholic Indian Missions at Washington has pursued General Morgan, Commissioner of Indian Affairs, ever since he entered upon his office. They attempted to induce the President to withdraw his nomination, and failed; they tried to defeat his confirmation, and failed; they endeavored to frustrate his purposes by legislation, and failed; they sought to induce the Secretary of the Interior to overrule him, and failed; they appealed again to the President, but without success. They attempted to destroy General Morgan's reputation and influence by newspaper attacks, which only reacted in his favor, and served to create a strong public sentiment against both them and their cause. It is seldom that non-Catholics of the country have been so united on any subject as on this. An effort was made in their behalf to defeat the renomination of the President at Minneapolis, which met with a most signal failure, and now a supreme effort is being made to defeat his re-election.

“A pamphlet signed by one of the officers of the Catholic Bureau, Father Stephan, and addressed to Bishop Marty, another officer of the Bureau, assailing President Harrison, Secretary Noble, and Commissioner Morgan for the Indian policy of the administration, has been printed, and is being secretly circulated, we are informed, especially among the Catholic priests, with a view of defeating Harrison and electing Cleveland.

"We believe this to be a blunder on the part of our Catholic friends. It is an attempt to carry into politics a sectarian question which does not belong there. There are great national issues of supreme importance to our public welfare, which alone should decide the result of the campaign, and the introduction of this outside issue is deplorable.

"It is an effort to consolidate the influence of the Catholic Church in behalf of the Democratic party. In so far as it is successful in this, it will tend to unite the Protestants in the interests of the Republican party, and thus to array these two great bodies of religionists against each other. This is certainly not in the interests of either Protestantism or Catholicism, and most assuredly cannot result to the benefit of the latter."

The *Catholic Standard* charged the *Independent* with slander in the publication of such a charge; but the *Independent* answered in a way that showed clearly that it was not publishing merely a flying rumor, but from actual knowledge. In its issue of September 15, the *Independent* made answer in part thus:—

"THE 'STILL HUNT.'"

"Our statement two weeks ago that there was a still hunt in progress among Catholics designed to prejudice the present administration with voters, is denied with some warmth by the *Catholic Standard*, Archbishop Ryan's organ. It calls our statement 'a slander,' and says that the document to which we refer as being circulated secretly has never reached the office of the *Catholic Standard*. That may be. And yet it has reached this office; and that it is exactly what we said it was, and that it was designed to be circulated secretly, the document itself clearly shows. It is a pamphlet of thirty-two pages, from the press of Gedney & Roberts Company, Washington. It is signed by J. A. Stephan, Director, and is addressed to the Rt. Rev. M. Marty, 'President of the Board of Catholic Indian Missions.'

"Though made in the form of a report to the president of the Bureau, the document is a bitter arraignment of the administration of President Harrison, Secretary Noble, and Commissioner Morgan. It refers to the 'bigoted Commissioner,' and to the 'not much less bigoted President.' The Commissioner is also charged with falsehood; and the old accusations, which were promptly met and refuted at the time, are repeated, and all is written for secret circulation."

The effect of setting the two great national parties against each other as the respective champions of the two great re-



ligions of the country, which the *Independent* suggested and feared, was not realized in this campaign, doubtless by reason of the secrecy of this "still hunt" document, and also for the very good reason that the chief campaign managers of the two great parties — Harrity for the Democratic party, and Carter for the Republican — were both Roman Catholics. But *Mr. Cleveland was elected*. He who was the candidate whom the Catholic Church favored, and who established the system of things which caused that church to antagonize Harrison — he was elected, and has already, since his election, banqueted "in private" with the Catholic archbishops of the United States, the Cardinal, and the papal representative, at the time of their late official assembly.

Now, on the other side, the Methodists in General Conference, May, 1892, decided to accept no more public appropriations for their Indian schools. The Methodists were followed in this move by the Episcopalians in their late General Assembly at Baltimore. Such Baptists as had been receiving this money have done likewise; and leading ministers of the Presbyterian Church have been laboring hard to get that body also to follow the example of the Methodists and others, and if they have not taken official action to refuse the appropriations, they may be persuaded to do so at the next General Assembly. When these great Protestant bodies all thus repudiate the system, it is hardly to be doubted that the smaller bodies will do the same thing. But will the Catholic Church repudiate it? Will she refuse to receive such appropriations? — Never.

Well, then, when the Protestant bodies all repudiate it, and the Catholic Church stands alone in taking public money for church uses, it is inevitable that the Protestant bodies will make a unanimous demand that *public appropriations to the Catholic Church shall cease*. Then the Catholic Church can reply to all this with the argument made ready for her in this decision, to this effect: "The Supreme Court of the United States has unanimously declared that 'this is a



Christian nation.' As the starting point and leading proof of this, the court has cited 'the commission to Christopher Columbus,' prior to his sail westward, from 'Ferdinand and Isabella, by the grace of God, King and Queen of Castile,' etc., recites that 'it is hoped by God's assistance some of the continents and islands in the ocean will be discovered.' Now the religion intended to be propagated by Ferdinand and Isabella was the Catholic religion. The religion which Columbus revered and which he hoped to be the instrument of spreading abroad, was the Catholic religion, and that alone. Therefore, as this royal document is adduced as evidence that this is a 'religious people' and a Christian nation; as the only religion contemplated or considered in connection with the document or its purposes was the Catholic religion; as all but Catholics are heretics and not Christians; it follows that the religion of this nation is the Catholic religion, and that this is a *Catholic* Christian nation. It is therefore perfectly proper and right that the Catholic Church should be supported, and the Catholic religion propagated, under national authority and from the national funds."

This is the argument which the Catholic Church can use at such a time, and the Protestants cannot deny that it is strictly logical throughout. The only thing that they can do is to produce as an offset the argument that the Supreme Court in the same decision goes on to cite other historical documents which contemplate and even *name* the Protestant religion; and, therefore, it is the Protestant, and not the Catholic, religion that is the religion of the nation.<sup>1</sup> Thus

<sup>1</sup> It may be suggested that the Protestants might base their demand and contention upon the *unconstitutionality* of the Catholic position. But this would require that they should argue the unconstitutionality of the Supreme Court decision. In itself this argument would be valid, as we shall see farther on. But, though it be valid, the Protestants could not use it. They have forever precluded themselves from it by having, in union with the Catholics, already made use of the decision to their own advantage. This practically admits the constitutionality of the decision, and shuts them off from denying it, even if they wanted to. But that they should want to is not among the probabilities, because the leading Protestant churches are not a whit behind the Catholic in wanting a national religion.

*the question, "What is the Christian religion?" would be raised, the controversy would be opened, the contest would be begun.*

Now we do not say that this is the way in which this course of things *must* end. We do not say that this is the way in which this great contest and controversy must be brought about, nor that this is the way in which it *will* be brought about. We only point to the situation as it exists to-day, and say that clearly this is a way in which it *can* be brought about; that herein lies strong probability that this is the way in which it *may* be brought about; and that, because of this, the situation demands careful consideration on the part of the people. But come about, this controversy and this contest certainly will. And when they do, then, with national prestige and political as well as ecclesiastical power and preferment, the prizes to be contended for, all the bitterness and intensity of the old controversies will be revived and manifested; and even these will be intensified. Commotion, strife, violence, persecution, and all the evil accompaniments of an established religion, will afflict and even ruin the nation, even as that former thing afflicted and finally ruined the Roman empire.

This is why Jefferson, Madison, and their wide-awake associates in Virginia, so strongly and persistently opposed the movement to establish "the Christian religion" in that State. This is why they pertinently and forcibly inquired, "Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians in exclusion of all other sects?" This is why they denounced that bill as "a signal of persecution," as "differing from the Inquisition only in degree," and as "the first step in the career of intolerance," in which the Inquisition is "the last step." This was all true, every word of it. But if this was true of only *an attempt* to es-

tablish the Christian religion, how much more is it true of this decision, which actually establishes the Christian religion as the national religion, and upon "proofs" and "authorities" presented, positively declares that "*this is a Christian nation.*"

Those noble men, then, "saw all the consequences in the principle, and they avoided the consequences by denying the principle." It is certainly true now, as it was then, that all the consequences are in the principle. And as the principle stands established and justified by the supreme judicial authority in the government, so in that all the consequences are established and justified. In short, as certainly as in the Edict of Milan there was wrapped up the papacy, just so certainly in this Supreme Court decision there is wrapped up the image of the papacy. And as truly as the issuing of the Edict of Milan was in principle and in embryo the making of the papacy—the beast—so truly this decision is in principle and in embryo the making of the image of the papacy—the image of the beast. Both are described in their career and in their end in Rev. 13: 1-17; 14: 9-16; and 19: 11-21.

It is too late now to avoid the consequences by denying the principle, as the principle is already established, and all the consequences are in the principle; too late, unless the whole people should rise up as one man, and with one voice reject and denounce this decision, as it deserves, in the words in which United States Senator William Pitt Fessenden denounced the famous Dred Scott decision as "utterly at variance with all truth, utterly destitute of all legal logic, founded on error, and unsupported by anything resembling argument."—*Blaine's "Twenty Years of Congress,"* vol. I, p. 133.

There is no hope of this, however, because the great mass of the people have been for years refusing, and still refuse, to believe that any mischief can ever come to *this* country

from any such principles, while the ecclesiastical combination which for years has been working to secure the very thing which the decision has now given them, will but redouble their energies in the use of the ascendancy which they now hold by the fiat of the supreme judicial authority of the nation. For these reasons, we repeat, it is too late to avoid the consequences by denying the principle, for the principle stands already established, and all the consequences are in the principle. And the ecclesiastical organization which has so long been anxious to assert the government as a kind of sovereignty for themselves, will not fail to draw, or even force, from the principle all the consequences that are in it.

#### CAPTIVITY OF THE REPUBLIC.

And *now* it is doubly too late to avoid the consequences by denying the principle, because the principle is not only established, but the consequences have begun to appear. On page 46, we stated that the president of the American Sabbath Union, in behalf of the whole ecclesiastical combination, took this decision and went before congressional committees and recited its arguments, and upon these demanded the closing of the World's Fair by act of Congress, "because this is a Christian nation." Congress has enacted two distinct laws, both of which close the World's Fair on Sunday, because it is the "Christian Sabbath," and because it was demanded *with threats*<sup>1</sup> by the ecclesiastical combination before mentioned. In this act Congress has not only legislated upon a religious subject, but has distinctly committed itself to the decision of a religious controversy, and

<sup>1</sup> Here is a sample of these threats. It was attached to "petitions" sent up by Presbyterian Churches in New York. It reads thus:—

"Resolved, That we do hereby pledge ourselves and each other, that we will from this time henceforth refuse to vote for or support for any office or position of trust, any member of Congress, either Senator or Representative, who shall vote for any further aid of any kind to the World's Fair except on conditions named in these resolutions."—*Congressional Record*, May 25, 1892, p. 5144.



has placed the United States government in the hands of the Church power.

This is proved by the clearest evidences, some of which we shall now give. In the discussion of the question in Congress, it was treated as a religious question and nothing else; and this, too, because the churches demanded it. So entirely was this so that, in a communication to the New York *Independent*, of July 28, 1892, the chaplain of the United States Senate said of the discussion in the Senate, these words:—

"During this debate you might have imagined yourself in a general council or assembly or synod or conference, so pronounced was one senator after another."

Senator Hawley said:—

"Everybody knows what the foundation is. It is founded in religious belief."

And Senator Peffer said of it:—

"To-day we are engaged in a theological discussion concerning the observance of the first day of the week."

As Senator Colquitt is a National Reformer, nothing else was to be expected of him, and he fully sustained this character in his speech, about half of which was made up from extracts from a sermon by Father Hyacinthe, Old Roman Catholic of France. The rest of his speech was National Reform sentiment of his own manufacture. Altogether it was of such a sort that he himself began to see how incongruous it was in that place, and halted with these words:—

"But I shall continue this no farther, Mr. President, for it may to some sound like cant, like preaching, as though we were undertaking to clothe ourselves in overrighteous habiliments and pretend to be better than other men."—*Congressional Record*, 52d Cong., p. 6755.

In the Senate the two most influential advocates of the measure were Senators Hawley, of Connecticut, and His-

cock, of New York. And Senator Hiscock said flatly these words: —

“If I had charge of this amendment in the interest of the Columbian Exposition, *I would write the provision for the closure in any form that the religious sentiment of the country demands*, and not stand here hesitating or quibbling about it. Rather than let the public sentiment against the Exposition being opened on Sunday be re-enforced by the opposition in the other House against any legislation of this kind in the interest of the Exposition, I say to the junior senator from Illinois [Mr. Palmer], *he had better yield to this sentiment*, and not let it go out to the country that there is the slightest doubt that if this money shall be appropriated, the Exposition will be closed on Sunday. . . . If I were interested in this measure, as I might be interested if it were located in my own State, *I should make this closure provision satisfactory to those petitioners* who have memorialized us against the desecration of the Lord's day. . . . I would not leave it uncertain whether the government might engage in business or not upon the Sabbath-day.” — *Congressional Record*, July 13, 1892, p. 6755.

Senator Vest, though professedly speaking for an open Fair, was constrained to say: —

“If I abhorred anything it would be any public act of mine which would say to the honest, religious people of the United States, ‘I am prepared to flout your opinions, to entirely disregard them, and to stamp upon them my disapprobation by giving them a vote directly in conflict with what you have asked.’ ” — *Id.*, July 12, p. 6697.

Senator Hawley greatly regretted that he was not enough of an ecclesiastic to do justice to the subject, and exclaimed: —

“I wish, Mr. President, that I were the most eloquent clergyman, the most eloquent of those staunch old sturdy divines who have honored American citizenship, as well as American Christianity, that I might give something more than this feeble expression of my belief in the serious importance of this vote.”

And because he could not have his wish to be, for the occasion, “the most eloquent clergymen,” and “the most eloquent of those staunch old sturdy divines” (such as John Cotton, and John Davenport, and Cotton Mather), he did what evidently he counted the next best thing, and presented

the views of Archbishop Ireland, Archbishop Gross, and Archbishop Riordan, of the Catholic Church, all the bishops of the Episcopalian Church, and most if not all the bishops of the Methodist Episcopal Church both North and South.

He said, "There are more than 13,000,000 people recorded as members of churches in the United States." He then added to these, "attendants," "associates," and "sympathizers," "who go to church or send their wives and children, and subscribe for it, and have a profound respect for it, whether they believe in it or not," and thus he made up the number of "from forty to fifty millions" who "have more or less of religious profession or sympathy" in this country, and then upon all this argued thus:—

"There is no use in endeavoring to escape responsibility. If the Senate to-day decides that it will not close that Exposition on Sunday, the Exposition will be opened on that day, and you will have offended more than 40,000,000 of people—seriously and solemnly offended them. No wise statesman or monarch of modern times, no satrap of Rome, would have thought it wise to fly in the face of a profound conviction of the people he governed, no matter if he thought it a profound error. *It is not wise statesmanship to do it.* . . . Now, if gentlemen repudiate this, if they desire to reject it, if they deny that this is in the true sense of the word a religious nation, I should like to see the disclaimer put in black and white and proposed by the Congress of the United States. Write it. How would you write it? How would you deny that from the foundation of the country, through every fiber of their being, this people has been a religious people? Word it, if you dare; advocate it, if you dare. HOW MANY WHO VOTED FOR IT WOULD EVER COME BACK HERE AGAIN?—None, I hope."—*Congressional Record*, July 12, 1892, p. 6700, and July 13, p. 6759.

It was the same way in the House. A dispatch from Washington to the Chicago *Daily Post*, April 9, 1892, gave the following from an interview with a member of the House Committee on the World's Fair:—

"The reason we shall vote for it is, I will confess to you, a fear that, unless we do so, the church folks will get together and knife us at the

polls; and — well you know we all want to come back, and we can't afford to take any risks."

"Do you think it will pass the House?"

"Yes; and the Senate too. We are all in the same boat. I am sorry for those in charge of the Fair; but self-preservation is the first law of nature, and that is all there is about it."

At this subservient attitude of Congress, the Sunday-law managers are chuckling with great satisfaction. In the *Union Signal*, Oct. 20, 1892, there was published an editorial interview with Joseph Cook, on Congress and Sunday closing of the Fair, in which occurs this passage from Mr. Cook:—

"In Boston the first question asked a stranger is, 'Have you written a book?' in New York, 'How much are you worth?' in Chicago, 'How much do you expect to be worth?' in Washington, 'Do you hope to be re-elected?' The American people have convinced Congress that this latter question is of great and growing importance in connection with votes on Sunday closing."

And so the threats of the churches were not in vain. And for fear that they could not "come back here again," United States senators repudiated the Constitution which they had sworn to maintain, and delivered the government of the United States bodily into the hands of the churches. And, worse than all, they openly proclaimed to the churches that they did so and did not dare to do otherwise. Was there ever on earth a more cowardly or a more contemptible surrender?

Now as to Congress making itself the interpreter of the divine law, and the expositor of Scripture for the people, that procedure will now be traced.

In the *Congressional Record* of July 10, 1892, page 6614, is the following:—

"MR. QUAY.—On page 122, line 13, after the word 'act' I move to insert:—

"'And that provision has been made by the proper authority for the closing of the Exposition on the Sabbath-day.'"



"The reasons for the amendment I will send to the desk to be read. The secretary will have the kindness to read from the Book of Law I send to the desk, the part enclosed in brackets.

"THE VICE-PRESIDENT.—The part indicated will be read.

"The secretary read as follows:—

"'Remember the Sabbath-day to keep it holy; six days shalt thou labor and do all thy work; 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 cattle, nor thy stranger that is within thy gates; 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.'"

The foregoing is all that was said or done in relation to the question that day. The next legislative day, however, the question was taken up and discussed. The debate was opened by Senator Manderson, of Nebraska. And in the *Record* of July 12, pages 6694, 6695, 6701, we read as follows:—

"The language of this amendment is, that the Exposition shall be closed on the 'Sabbath-day.' I submit that if the senator from Pennsylvania desires that the Exposition shall be closed upon Sunday, this language will not necessarily meet this idea. The Sabbath-day is not Sunday. . . .

"The word 'Sabbath-day' simply means that it is a rest day, and it may be Saturday or Sunday, and it would be subject to the discretion of those who will manage this Exposition, whether they should close the Exposition on the last day of the week, in conformity with that observance which is made by the Israelites and the Seventh-day Baptists, or should close it on the first day of the week, generally known as the Christian Sabbath. It certainly seems to me that this amendment should be adopted by the senator from Pennsylvania, and, if he proposes to close this Exposition, that it should be closed on the first day of the week, commonly called Sunday. . . .

"Therefore I offer an amendment to the amendment, which I hope may be accepted by the senator from Pennsylvania, to strike out the words 'Exposition on the Sabbath-day,' and insert 'mechanical portion of the Exposition on the first day of the week, commonly called Sunday.' . . .

"MR. QUAY.—I will accept the modification so far as it changes the phraseology of the amendment proposed by me in regard to designating the day of the week on which the Exposition shall be closed.

"THE VICE-PRESIDENT.—The senator from Pennsylvania accepts the modification in part, but not in whole. . . .

"MR. HARRIS.—Let the amendment of the senator from Pennsylvania, as modified, be reported.

"THE VICE-PRESIDENT.—It will be again reported.

"THE CHIEF CLERK.—On page 122, line 13, after the word 'act' it is proposed to amend the amendment of the committee by inserting :—

"'And that provision has been made by the proper authority for the closing of the Exposition on the first day of the week, commonly called Sunday.'"

This amendment was afterward further amended by the insertion of the proviso that the managers of the Exposition should sign an agreement to close the Fair on Sunday before they could receive any of the appropriation ; but this which we have given is the material point.

All of this the House confirmed in its vote accepting the Senate amendments. Besides this, the House had already, on its own part, by a vote of 131 to 36, decided that Sunday is the "Christian Sabbath ;" and by a vote of 149 to 11 that the seventh day is not the Sabbath. And thus did the Congress of the United States, at the dictate of the churches, not only take sides in a religious controversy, and discuss and decide a religious question, but put itself in the place and assume to itself the prerogative of authoritative interpreter of the divine law ; for, from the official record of the proceedings, there appear these plain facts :—

1. The divine law was officially and in its very words adopted as containing the "reasons" and forming the basis of the legislation. In other words, the legislation proposed only to enforce the divine law as quoted from the Book.

2. Yet those to whom the legislation was directed, and who were expected to execute its provisions, were not allowed to read and construe the divine law for themselves ; and this for the very reason that there was a possibility that they might take the divine word as it reads and as it was actually quoted in the official proceedings, and shut the

Exposition on the day plainly specified in the divine word, which was cited as the basis and authority for the action taken.

3. Therefore, to preclude any such possibility, Congress assumed the prerogative of official and authoritative interpreter of the divine law, and declared that the "first day of the week, commonly called Sunday," is the Sabbath of the fourth commandment of the divine law — that the "first day of the week, commonly called Sunday," is the meaning of the word of the Lord which says, "The seventh day is the Sabbath of the Lord thy God."

This is what the Congress of the United States has done, and, in the doing of it, has violated every rule and every principle that governs in the interpretation of law. A leading rule for the interpretation of law is this: —

"In the case of all law, it is *the intent* of *the* lawgiver that is to be enforced."

What, then, was the intent of the Lawgiver when the Sabbath commandment was given? Did the Lawgiver declare, or show in any way his intention? — He did. He declared in plain words that the *seventh* day is the one intended to be observed. Nor did he leave them to decide for themselves which day *they* would have for the Sabbath. He did not leave it to the people to interpret his law for themselves, nor to interpret it at all. By three special acts every week, kept up continuously for forty years, the Lord showed his intent in the law. The people were fed on the manna in their forty years' wanderings between Egypt and Canaan; but on the seventh day of the week no manna ever fell. On the sixth day of the week there was a double portion, and that which was gathered on the sixth day would keep over the seventh day, which it could not be made to do on any other day of the week. By this means the Lawgiver signified his intent upon the subject of the day mentioned in the law

quoted by Congress ; and, by keeping it up so continuously, and for so long a time, he made it impossible for the people then to mistake his intent, and has left all future generations who have the record of it, without excuse in gathering anything else as his intent than that the seventh day is the Sabbath. Therefore, when Congress decided that "the first day of the week, commonly called Sunday," is the meaning of the divine law which says "the seventh day is the Sabbath," it plainly set itself in contradiction to the word and intent of the Most High.

Another established rule is this : —

"When words are plain in a written law, there is an end to all construction ; they must be followed." And, "Where the intent is plain, nothing is left to construction."

Are the words of this commandment, quoted by Congress, plain words? — They are nothing else. There is not an obscure nor an ambiguous word in the whole commandment. Then, under the rule there is no room for any construction ; much less is there room for any *such* construction as would make the expression "the seventh day" mean "the first day of the week, commonly called Sunday." Fitting to the point, the New Testament has given us an interesting and important piece of narrative. In Mark 16 : 1, 2, are these words : —

"And when the Sabbath was past, Mary Magdalene, and Mary the mother of James, and Salome, had bought sweet spices, that they might come and anoint him. And very early in the morning the first day of the week, they came unto the sepulcher at the rising of the sun."

These people arose *very early in the morning* of the first day of the week ; yet *the Sabbath was past*. Now Congress has legislated to secure respect for the Sabbath on "the first day of the week." Such a thing can never be done, however, because Inspiration has declared that the Sabbath is past before the first day of the week comes. It matters not how early our illustrious and devout Congress and the



World's Fair Commission may get out and around "on the first day of the week, commonly called Sunday," they will be too late to find the Sabbath there, for the Lord says that *then* it is "*past*."

And it is the Sabbath according to the commandment, too, that is past when the first day of the week comes — the Sabbath according to this very commandment which Congress has officially cited. Here is the record : —

"And they returned, and prepared spices and ointments; and rested the Sabbath day according to the commandment. Now upon the first day of the week, very early in the morning, they came unto the sepulcher, bringing the spices which they had prepared, and certain others with them. And they found the stone rolled away from the sepulcher. And they entered in, and found not the body of the Lord Jesus." Luke 23 : 56 ; 24 : 1-3.

Here is the plain word of the Lord, stating plainly and proving conclusively that "the Sabbath day" according to the very commandment which Congress has officially cited, is the day *before* "the first day of the week, commonly called Sunday," and that the Sabbath day according to this commandment *is past* before "the first day of the week, commonly called Sunday," comes at all, no matter how early they may get up the first day of the week.

It is true that the churches are at the head of all this, and that Congress did it at the dictation and under the threats of the churches. It is true that the churches have put this false interpretation upon the commandment, and then saddled it off thus upon Congress. This is all true, but that does not relieve Congress from one whit of the guilt of perverting the law of the Most High, of forcing into that law a meaning that was never intended to be there, and of putting itself in the place of God and assuming the office of interpreter of his laws. Congress had no business to allow itself to be forced into such a position. Judge Cooley, "Constitutional Limitations," page 67, says : —

"A court or legislature which should allow a change of public sentiment to influence it in giving to a written Constitution a construction not warranted by the intention of its founders, would be justly chargeable with reckless disregard of official oath and public duty."

The theologians gave to the Sabbath commandment a construction which was not in any sense warranted by the intention of the Author of the commandment. They then went to Congress and demanded with threats that it allow itself to be influenced by these theological sentiments and political threats, to give to the written Constitution of the government of the living God, a construction which is not in any sense warranted by the intention of the Founder of that Constitution. And our national Legislature did allow this sentiment to influence it into doing that very thing. Such a thing done to a human Constitution, an earthly statute, being justly chargeable to reckless disregard of official oath and public duty, what must be chargeable against such an action with reference to the divine Constitution and the heavenly law? The national Legislature, the Congress of the United States, has allowed the churches to draw it into the commission of an act with reference to the Constitution and laws of the living God, which, if done only with the laws of men, would be reckless disregard of official oath and public duty. And both Congress and the churches are without excuse in the doing of it.

By this legislation, at the dictate of the churches, Congress has distinctly and definitely put itself and the government of the United States into the place where it has established, and proposes to enforce, the observance of an institution as sacred, and as due to the Lord, which not only the Lord has neither established nor required, but which is directly contrary to the plain word of the Lord upon the subject of this very institution, and its observance as due to the Lord. And in the doing of this, Congress has also been caused to assume to itself the prerogative of authorita-

tive interpreter of Scripture for the people of the land and for all who come into the land, and puts itself in the place of God by authoritatively deciding that an observance established and required by the State, and which it calls the Lord's, is the Lord's indeed, although the Lord plainly declares the contrary.

In thus submitting to the dictates of the churches, and making itself the official and authoritative mouthpiece for the theological definitions and interpretations of the divine law, the Congress of the United States has given over the government of the United States into the hands of the combined churches. A forcible American writer has long ago stated the principle thus:—

"To permit a church—*any* church— . . . to dictate, beforehand, what laws should or should not be passed, would be to deprive the people of all the authority they have retained in their own hands, and to make such church the governing power, instead of them." <sup>1</sup>

This is precisely what has been done before the eyes of the people of the United States in this Sunday legislation of the fifty-second Congress. The combined "evangelical" churches, including the Catholic Church, as a united body on this question, did dictate under threats that this law should be passed. Congress did permit it, and did yield to the dictation, and, in so doing, it did deprive the people of the governmental authority which they had retained in their own hands by the Declaration and the Constitution, and did make the churches the governing power in the government instead of the people. "Government of the people by the people and for the people" is gone, and there has been established, in its stead, *the subjection of the people* by the churches and for the churches.

This the Congress of the United States has been led by the churches to do, and, in the doing of it, it has caused

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<sup>1</sup> Hon. Richard W. Thompson, "The Papacy and the Civil Power," p. 45.

this enlightened nation, the example and glory of the world, to assume the place and the prerogatives of the governments of the Middle Ages, in enforcing the dogmas and the definitions of the theologians, and executing the arbitrary and despotic will of the Church.

Not only has the Congress done this, but it has openly confessed to the churches that it has done so, and that it did not "dare" to do otherwise.

Anybody with half the average amount of sense about him ought to have known enough not to openly confess it to the churches, even though it were so. But since this abject confession is so cravenly made, is it any wonder that the churches, realizing their power, should at once boast of it and begin to use it? This is just what they are doing. The Chaplain of the United States Senate, J. G. Butler, D. D., wrote in the *New York Independent*, July 28, 1892, as follows:—

"Say not that the former days were better than these, for the Congress of the United States never numbered abler, truer, nobler men than fill the chambers to-day! *And never more surely than now* would avowed hostility to God, his day and word and house and kingdom, *remand a public servant to private life.*"

It is evident, therefore, that henceforth religious tests are to be made a qualification for office under the government of the United States.

"Rev." J. D. Sands, of the Seventh United Presbyterian Church, Pittsburg, Pa., in a sermon preached July-17, 1892, said:—

"That the Church has weight with great political or governing bodies has been demonstrated most effectually in the late World's Fair matter, when the United States Senate, the highest body in the country, *listened to the voice of religion*, and passed the World's Fair \$5,000,000 appropriation bill *with the Church-instituted proviso* that the gates of the great Exposition should not be opened upon Sunday. That grand good fact suggests to the Christian's mind that if this may be done, so may other equally



needful measures. The Church is gaining power continually, *and its voice will be heard in the future much oftener than in the past.*"

And one of the men who spent months in Washington as an avowed "Christian lobbyist," and who sat in the gallery of the House and clapped his hands in exultation the moment when this World's Fair closing bill finally passed, "Rev." H. H. George, D. D., said, in a speech in Patterson, N. J., Aug. 7, 1892, these words: —

"I have learned that . . . we hold the United States Senate in our hands."

That is true. Senators in their official place have openly told them so. Finally, the *Christian Statesman*, Oct. 1, 1892, celebrating the twenty-fifth anniversary of founding for this very purpose, joyfully exclaimed: —

"The forty millions in the Christian homes of the land, *the ruling majority* when they assert themselves, have won at least one great moral victory in each of the recent sessions of Congress. . . . The Sabbath-closing victory with which the quarter century closes, shows the way to others that will make the nineteenth century go out in glory eight years hence. For *the great Christian majority has learned*, by response to its great petition, and its host of letters with reference to the World's Fair, *that it can have* of national and State governments whatever legislation against immorality it will ask unitedly and earnestly."

It stands, therefore, as an accomplished fact, that, by a specific religious act of Congress, the government of the United States has been put into the hands of the combined churches, and is now at their disposal to use in enforcing upon the American people the dictates and decrees of the Church.

And thus by the decision of the Supreme Court and the act of Congress, the Constitution of the United States has been overridden; the distinguishing principle of the government of the United States has been subverted; the intention of the makers of the Constitution and the government has

been disregarded; and in the place of all these there has been established here the living image of the papacy.

THE WHOLE PROCEDURE UNCONSTITUTIONAL.

Yet, though it be too late to avoid the consequences, because the principle is established, and the consequences have begun, it is *not* too late to appeal from the act of Congress, and even from THE DECISION OF THE SUPREME COURT.

The right of appeal from any act of Congress is recognized and well known universally. The proper source of appeal from an act of Congress should be the Supreme Court. But in this matter the Supreme Court has actually led the way, has forestalled the action of Congress, and so has completely shut off this source of appeal. It follows, therefore, that an appeal must lie, not only from the act of Congress, but from the decision of the Supreme Court itself. In short, in the situation in which this matter is placed, the appeal must be taken from the whole government of the United States. This is the only source of appeal that remains to the people of the United States, *and this does remain.*

The right of American citizens to appeal to the government of the United States, when it touches any of their reserved rights, is an inalienable right.

The authority of the government of the United States is delegated, and not absolute. The authority of the government of the United States is not the supreme authority in the United States, because the people did not delegate all their rights in the making and establishment of the government. In the Constitution the people have declared:—

“The enumeration in the Constitution of certain rights shall not be construed to *deny* or *disparage* others retained by the people.”

The government is but a creature of the Constitution. *The people* made the Constitution with the delegation only of

certain rights. Therefore *the people* are the supreme authority in the United States, and the source of final appeal in all questions of their reserved rights. And "prudent jealousy" in the guardianship of these rights against encroachment on the part of the government is the first duty of American citizens; and *religious rights* are the chief of all these reserved rights, no less than the chief of all natural rights.

The government, being but a creature of the Constitution, is subject to the Constitution. Having been created by the people, through the Constitution, it is bound by the limitations prescribed by the people in the Constitution.

In the Constitution the people have declared that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

No power in, or over, or concerning religion has been delegated to the United States by the Constitution, nor has such power been prohibited by it to the States.

All questions, and all matters of religion, therefore, are withheld from the government of the United States, and are reserved and belong exclusively to the States or to the people.

As no power concerning religion has been delegated to the United States by the Constitution, nor prohibited by it to the States; as all power and jurisdiction in matters of religion has been reserved exclusively to the States or to the people; it follows inevitably that the government has no power or authority or jurisdiction in, over, or concerning the subject of religion: and that *therefore* the Supreme Court of the United States had no authority or right to declare the American people "a religious people," or this nation "a Christian nation," nor had Congress any right to establish or require the recognition or observance of the "Christian Sabbath."

Again, not only has no authority or jurisdiction in matters of religion been delegated to the United States by the

Constitution, but all such authority or jurisdiction has actually been *prohibited to the United States* by the Constitution. Religion cannot rightly be made in any sense a requisite to the governmental authority of the United States, because the Constitution prohibits it in the words : —

“No religious test shall ever be required as a qualification to any office or public trust under the United States.”

The government can never rightly legislate in any way upon matters of religion, because the Constitution prohibits it in the words : —

“Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

Religion cannot rightly be made a requisite to the citizenship of the United States, because the supreme law says : —

“The government of the United States is not in any sense founded on the Christian religion.”

*Therefore, as all religion, and specifically the Christian religion, is prohibited the government of the United States by the supreme law, and as the Supreme Court and Congress are but co-ordinate branches of the government of the United States, it follows inevitably that the Supreme Court not only has no power to declare, but was directly and positively by the supreme law prohibited from declaring, the American people “a religious people,” or this nation a “Christian nation ;” and Congress was equally prohibited from discussing or deciding the Sabbath question, and from establishing or requiring the observance of the Sabbath.<sup>1</sup>*

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<sup>1</sup> It is pleaded that as Congress made an appropriation of money, it had a right to put such restriction as it should see fit upon the expenditure of the money granted, as to *civil* restrictions. But it had no shadow of right to attach any kind of *religious* restriction, as it did in this case. Congress had just as much right to require the World's Fair directory to agree to submit to Christian baptism, before receiving any of this appropriation, as to require them to agree to close the gates on the “Christian Sabbath,” which it pronounced Sunday to be. Congress had just as much right to require that the directory should agree to partake of the Lord's Supper, as a condition precedent to receiving the appropriation, as it had to require them to agree to close the gates on the Lord's day, as it pronounced Sunday to be.



Yet again : As the government is but a creature of the supreme law, it is subject to the supreme law. And although the Supreme Court is the official interpreter of the supreme law, yet the court itself is bound by the supreme law. And although Congress is the official law-making power of the government, yet it is restricted, and its power is limited, by the Constitution as the supreme law. Therefore, as the Supreme Court and Congress are but co-ordinate branches of the government of the United States ; and as the government of the United States is positively prohibited by the supreme law from any jurisdiction in questions of any religion ; it follows inevitably that when the Supreme Court and Congress entered the field of religion, carried on a discussion in favor of religion, and officially decided and declared that the American people is "a religious people," and this nation a "Christian nation," and officially decided that Sunday is the Christian sabbath, and established and required the observance thereof as "the Christian Sabbath," both the Court and Congress did, not only what they had no authority to do, but what they were positively prohibited from doing, and so *violated the supreme law*, and placed themselves in a position where their conclusions, their declarations, and their decisions, *so far*, possess no legality or validity whatsoever.

In pleading before the Virginia Convention for the ratification of the Constitution, Madison said : —

"There is not a shadow of right in the general government to intermeddle with religion. Its least interference with it would be a *most flagrant usurpation*."

This being true, and the intent of the makers of the Constitution, it is easy for any person to see and to state just what these actions of the general government are.<sup>1</sup>

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<sup>1</sup> There is a way in which the Court could have correctly touched the Constitution in this part of its decision. It is this : Where the Court said, "No purpose of action against religion can be imputed to any legislation, State or national, *because this is a religious*

Consequently, the conclusion of this whole matter, the sum of all that has been or that can be said upon it, is, and the demonstration is complete, that the *declaration*, the *decision*, and the *act* of the Supreme Court and the Congress of the United States that this is "a religious nation," "a religious people," and "a Christian nation," and that Sunday is the Sabbath and should be so observed, ARE UNCONSTITUTIONAL AND VOID, AND UTTERLY DESTITUTE OF ANY AUTHORITY WHATEVER.

#### OUR APPEAL AND REMONSTRANCE.

For all these reasons, as Christians, as Protestants, as American citizens, and as men, we do now and forever appeal from the decision of the Supreme Court of the United States of Feb. 29, 1892, which declares this to be "a religious people" and "a Christian nation," and from the act of Congress which establishes Sunday as the Sabbath.

As Christians, we appeal on the ground of the *divine right* which Jesus Christ has recognized and declared — the right of every man to dissent even from the words and the religion of Christ. These are his words: "If any man hear my words and *believe not*, I *judge him not*; for I came not to judge the world but to save the world." John 12:49.

As Protestants, we appeal on the ground of the *historical right to protest* against every interference of civil government in the affairs of religion. The grand charter of Protestantism, the Augsburg Confession, declares: —

"The civil administration is occupied about other matters than is the gospel. The magistracy does not defend *the souls*, but *the bodies*, and

*people*. This is historically true," the Court *should* and *could* have said this: No purpose of action against religion can be imputed to any legislation, State or national, *because it is forbidden by the constitutions, State and national*. THIS IS HISTORICALLY TRUE. Then how vastly different would have been the historical citations and argument; and how vastly different would have been the decision! How infinitely different, too, would have been the consequences of the decision — the one would have kept our nation still the star of liberty and of hope to all nations, whereas the other leads the nation back to Rome and the scenes and doctrines of the Dark Ages.

*bodily things*, against manifest injuries, and coerces men by the sword and corporal punishment, that it may uphold *civil justice* and *peace*. Wherefore, the ecclesiastical and the civil power are not to be confounded. The ecclesiastical power has its own command, to preach the gospel and administer the sacraments. Let it not by force enter into the office of another; let it not transfer worldly kingdoms; . . . let it not prescribe laws to the magistrate touching the form of the State; as Christ says, 'My kingdom is not of this world.'"—Article XXVIII.

As American citizens, we appeal on the ground of the specifically declared *constitutional right* to the free exercise of religion according to the dictates of the individual conscience, totally free and exempt from all governmental connection, interference, or control.

As men, we appeal on the ground of the *natural right of mankind* to render to the Creator such homage and such only as each man believes to be acceptable to him: which right men possess by virtue of being men, and not by virtue of government; which was theirs before government was, and which would be theirs though there were no earthly government at all; which is *their own*, in the essential meaning of the term; which is precedent to all the claims of civil society, and which would be the same to each man though there were not another person on the earth; which they do not hold by any sub-infeudation, but by direct homage and allegiance to the Owner and Lord of all.

And whether as Christians, as Protestants, as American citizens, or as men, what we mean by religion, always and everywhere, is "*the duty which we owe to our Creator, AND THE MANNER OF DISCHARGING IT.*"

Finally, in this our appeal from this action of the government of the United States, and our remonstrance against the principle, and all the consequences, of the action, we adopt (and adapt) the words of Madison, Jefferson, the Presbyterians, the Baptists, the Quakers, and the other good people of Virginia, in their memorable defense against the

establishment of the "Christian religion" there and the making of that "a Christian State."

We would humbly represent that the only proper objects of civil government are the happiness and protection of men in the present state of existence, the security of life, liberty, and property of the citizens, and to restrain the vicious and encourage the virtuous by wholesome laws, equally extending to every individual. But religion, or the duty which we owe to our Creator, *and the manner of discharging it*, can be directed only by reason and conviction, and is *nowhere* cognizable but at the tribunal *of the universal Judge*.

To illustrate and confirm these assertions, we beg leave to observe that, to judge for ourselves, and to engage in the exercise of religion agreeably to the dictates of our own consciences, is an inalienable right, which, upon the principles on which the gospel was first propagated, and the Reformation from papacy carried on, can never be transferred to another. We maintain, therefore, that in matters of religion no man's right is abridged by the institution of civil society, and that religion is wholly exempt from its cognizance.

2. If religion be exempt from the authority of society at large, much more is it exempt from the authority of the government. The latter is but the creature and vicegerent of the former. Its jurisdiction is both derivative and limited. It is limited with regard to the co-ordinate departments of the government, and more necessarily is it limited with regard to the whole people. The preservation of free government requires not merely that the metes and bounds which separate each department of the governmental power be invariably maintained, but more especially that neither of them be suffered to overleap the great barrier which defends the rights of the people. The rulers who are guilty of such encroachment exceed the commission from which they derive their authority, and are tyrants. The people



who submit to it are governed by laws made neither by themselves nor by any authority derived from them, and are slaves.

3. It is proper to take alarm at the first experiment upon our liberties. We hold this prudent jealousy to be the first duty of citizens, and the noblest characteristic of the American Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled itself in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority that can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects? And it is impossible for the magistrate to adjudge the right of preference among the various sects that profess the Christian faith, without erecting a claim to infallibility, which would lead us back to the Church of Rome. Who does not see that the same authority that can require assent to Christianity as the national religion, may, with the same propriety, require assent to each particular phase and feature of that religion? that the same authority that can require the observance of the "Christian Sabbath," may, by the same right, require the observance of every other "Christian" practice, custom, or institution? nay, more, that, with the same propriety and the same right, the authority which may require assent to Christianity as the national religion, may require assent to any other religion which the shifting policy of government might seem to demand? For it is certain that there is no argument in favor of establishing the Christian religion which may not, with equal propriety, be pleaded for establishing the tenets of Mohammed by those who believe the Koran; or Buddhism or any other religion by those who believe in such religion.

4. During almost sixteen centuries has the legal establishment of "Christianity" been on trial, under a number of different claims and phases. What have been its fruits? More or less in all places pride, indolence, and insolence in the favored clergy; ignorance and servility in the assenting laity; in both superstition, bigotry, and persecution. Inquire of the teachers of Christianity, for the ages in which it appeared in its greatest power and luster; those of every sect will point to the time *before its incorporation with the civil power*, whether it be viewed in its first propagation by the apostles, or in its revival in the great Reformation.

5. On the other hand, what influence, in fact, have established religions had on civil society? In some instances they have been seen to erect spiritual tyranny on the ruins of civil authority; in many instances they have been seen upholding the thrones of political tyranny; *in no instance* have they been seen the guardians of the liberties of the people. A just government, instituted to secure and perpetuate public liberty, needs them not. Such a government will be best supported by protecting every citizen in the enjoyment of his religion, with the same equal hand which protects his person and property — by neither invading the equal right of any sect or individual, nor suffering any sect to invade those of another or of any individual.

6. This establishment of a national religion here is a serious departure from that generous disposition of this government which, offering an asylum to the persecuted and oppressed of every nation and religion, has made this nation the glory of the ages and (excepting the papacy) the admiration of the world. What a melancholy mark is this decision of sudden degeneracy! Instead of holding forth still an asylum to the persecuted, it is itself a signal of persecution. It degrades from the equal rank of citizens all whose opinions in religion do not bend to those of the governmental authority. Distant as it may be in its present form from the Inqui-

sition, it differs from it only in degree. The one is the first step, the other is the last, in the career of intolerance. Henceforth the magnanimous sufferer from this cruel scourge in foreign regions must view this action of our government as a beacon on our coast, warning him that now there is on earth no haven where he may be secure from religious oppression and persecution.

7. Finally, the equal right of every citizen to the free exercise of religion according to the dictates of the individual conscience is held by the same tenure as all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less dear to us. If we consult the national Constitution, the grand charter of those rights which pertain to the good people of the United States, it is not only enumerated with equal solemnity, but it is reserved with studied and special emphasis.

Either, then, we must say that *the will* of the governmental authority is *the only measure* of that authority, and that in the plenitude of that authority it may sweep away all our fundamental rights, or *that it is bound to leave this particular right untouched and sacred*. Either we must say that the governmental authorities may control the freedom of the press, may abolish the trial by jury,—nay, that they may despoil us of our very right of suffrage and erect themselves into an independent and hereditary body, or we must say that they had no authority to make the declaration and decision or to pass the acts under consideration.

*We* say that the government of the United States has no such authority, and in order that no effort may be omitted on our part against so dangerous a usurpation, we oppose to it this appeal and remonstrance.

#### CONCLUSION.

We, therefore, as Christians, as Protestants, as American citizens, and as men, appealing to the Supreme Judge of the

world for the rectitude of our intentions, do, in the name and by the authority of the natural rights of mankind, of the Constitution of the United States, of the history of more than eighteen hundred years, and of the Lord Jesus Christ, solemnly publish and declare that we are, and of right ought to be, free and independent of all connection, direction, dictation, interference, or control, of the government of the United States, *in matters of religion or religious observances or institutions of any kind or degree*; and that, as such, we have full right to be religious or not religious, to worship or not to worship, according to the dictates of our own consciences and the convictions of our own minds.

And for the support of this appeal, remonstrance, and declaration, and with a firm reliance on the protection of the God and Father of our Lord Jesus Christ, we mutually pledge to each other and to the world our lives, our fortunes, and our sacred honor. Amen and amen. "And let all the people say, Amen."



## APPENDIX.

For the benefit of the reader we give in full the text of the Supreme Court decision : —

### SUPREME COURT OF THE UNITED STATES.

No. 143.— OCTOBER TERM, 1891.

The Rector, Church Wardens, and Vestry- men of the Church of the Holy Trinity, Plaintiffs in Error, <i>vs.</i> The United States.	}	In error to the Circuit Court of the United States for the Southern District of New York.
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[February 29, 1892.]

Mr. Justice Brewer delivered the opinion of the Court.

Plaintiff in error is a corporation, duly organized and incorporated as a religious society under the laws of the State of New York. E. Walpole Warren was, prior to September, 1887, an alien residing in England. In that month the plaintiff in error made a contract with him, by which he was to remove to the city of New York and enter into its service as rector and pastor; and, in pursuance of such contract, Warren did so remove and enter upon such service. It is claimed by the United States that this contract on the part of the plaintiff in error was forbidden by chapter 164, 23 Stat. 332, and an action was commenced to recover the penalty prescribed by that act. The Circuit Court held that the contract was within the prohibition of the statute, and rendered judgment accordingly (36 Fed. Rep. 303); and the single question presented for our determination is whether it erred in that conclusion.

The first section describes the act forbidden, and is in these words :—

*“ Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation, or in any way assist or encourage the importation or migration of any alien or aliens, any foreigner or foreigners, into the United States, its Territories, or the District of Columbia, under contract or agreement, parol or special, ex-*

press or implied, made previous to the importation or migration of such alien or aliens, foreigner or foreigners, to perform labor or service of any kind in the United States, its Territories, or the District of Columbia."

It must be conceded that the act of the corporation is within the letter of this section, for the relation of rector to his church is one of service, and implies labor on the one side with compensation on the other. Not only are the general words labor and service both used, but also, as it were, to guard against any narrow interpretation and emphasize a breadth of meaning, to them is added "of any kind;" and, further, as noticed by the Circuit Judge in his opinion, the fifth section, which makes specific exceptions, among them professional actors, artists, lecturers, singers, and domestic servants, strengthens the idea that every other kind of labor and service was intended to be reached by the first section. While there is great force to this reasoning, we cannot think Congress intended to denounce with penalties a transaction like that in the present case. It is a familiar rule, that a thing may be within the letter of the statute and yet not within the statute, because not within the spirit, nor within the intention of its makers. This has been often asserted, and the reports are full of cases illustrating its application. This is not the substitution of the will of the judge for that of the legislator, for frequently words of general meaning are used in a statute, words broad enough to include an act in question, and yet a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giving such broad meaning to the words, makes it unreasonable to believe that the legislator intended to include the particular act. As said in *Plowden*, 205: "From which cases, it appears that the sages of the law heretofore have construed statutes quite contrary to the letter in some appearance, and those statutes which comprehend all things in the letter they have expounded to extend to but some things, and those which generally prohibit all people from doing such an act, they have interpreted to permit some people to do it, and those which include every person in the letter, they have adjudged to reach to some persons only, which expositions have always been founded upon the intent of the legislature, which they have collected sometimes by considering the cause and necessity of making the act, sometimes by comparing one part of the act with another, and sometimes by foreign circumstances."

In *Pier Co. vs. Hannam* (3 B. & Ald. 266), C. J. Abbott quotes from Lord Coke as follows: "Acts of Parliament are to be so construed as no man that is innocent or free from injury or wrong be, by a literal construction, punished or endangered." In the case of the *State vs. Clark* (5 Dutcher, 96, 99), it appeared that an act had been passed making it a misdemeanor to willfully break down a fence in the possession of another

person. Clark was indicted under that statute. The defense was that the act of breaking down the fence, though willful, was in the exercise of a legal right to go upon his own lands. The trial court rejected the testimony offered to sustain the defense, and the Supreme Court held that this ruling was error. In its opinion the court used this language: "The act of 1855, in terms, makes the willful opening, breaking down, or injuring of any fences belonging to or in possession of any other person a misdemeanor. In what sense is the term willful used? In common parlance, willful is used in the sense of intentional, as distinguished from accidental or involuntary. Whatever one does intentionally he does willfully. Is it used in that sense in this act? Did the legislature intend to make the intentional opening of a fence for the purpose of going upon the land of another, indictable if done by permission or for a lawful purpose? . . . We cannot suppose such to have been the actual intent. To adopt such a construction would put a stop to the ordinary business of life. The language of the act, if construed literally, evidently leads to an absurd result. If a literal construction of the words of a statute be absurd, the act must be so construed as to avoid the absurdity. The court must restrain the words. The object designed to be reached by the act must limit and control the literal import of the terms and phrases employed." In *United States vs. Kirby* (7 Wall. 482, 486), the defendants were indicted for the violation of an act of Congress, providing "that if any person shall knowingly and willfully obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage carrying the same, he shall, upon conviction, for every such offense pay a fine not exceeding one hundred dollars." The specific charge was that the defendants knowingly and willfully retarded the passage of one Farris, a carrier of the mail, while engaged in the performance of his duty, and also in like manner retarded the steamboat "General Buell," at that time engaged in carrying the mail. To this indictment the defendants pleaded specially that Farris had been indicted for murder by a court of competent authority in Kentucky; that a bench warrant had been issued and placed in the hands of the defendant Kirby, the sheriff of the county, commanding him to arrest Farris and bring him before the court to answer to the indictment; and that in obedience to this warrant, he and the other defendants, as his posse, entered upon the steamboat "General Buell" and arrested Farris, and used only such force as was necessary to accomplish that arrest. The question as to the sufficiency of this plea was certified to this court, and it was held that the arrest of Farris upon the warrant from the State court was not an obstruction of the mail, or the retarding of the passage of a carrier of the mail, within the meaning of the act. In its opinion the court says: "All laws should receive a sensible construction. General terms should be so limited in their application as not to lead to

injustice, oppression, or an absurd consequence. It will always, therefore, be presumed that the legislature intended exceptions to its language which would avoid results of this character. The reason of the law in such cases should prevail over its letter. The common sense of man approves the judgment mentioned by Puffendorf, that the Bolognian law which enacted 'that whoever drew blood in the streets should be punished with the utmost severity,' did not extend to the surgeon who opened the vein of a person that fell down in the street in a fit. The same common sense accepts the ruling, cited by Plowden, that the statute of 1st Edward II, which enacts that a prisoner who breaks prison shall be guilty of felony, does not extend to a prisoner who breaks out when the prison is on fire, 'for he is not to be hanged because he would not stay to be burnt.' And we think that a like common sense will sanction the ruling we make, that the act of Congress which punishes the obstruction or retarding of the passage of the mail, or of its carrier, does not apply to a case of temporary detention of the mail caused by the arrest of the carrier upon an indictment for murder." The following cases may also be cited: *Henry vs. Tilson* (17 Vt. 479); *Ryegate vs. Wardsboro* (30 Vt. 746); *Ex parte Ellis* (11 Cal. 220); *Ingraham vs. Speed* (30 Miss. 410); *Jackson vs. Collins* (3 Cowen 89); *People vs. Insurance Company* (15 Johns 358); *Burch vs. Newbury* (10 N. Y. 374); *People ex rel. vs. Comrs. &c.* (95 N. Y. 554, 558); *People ex rel. vs. Lacombe* (99 N. Y. 43, 49); *Canal Co. vs. Railroad Co.* (4 Gill & Johnson, 152); *Osgood vs. Breed* (12 Mass. 525, 530); *Wilbur vs. Crane* (13 Pick. 284); *Oates vs. National Bank* (100 U. S. 239).

Among other things which may be considered in determining the intent of the legislature is the title of the act. We do not mean that it may be used to add to or take from the body of the statute (*Hadden vs. The Collector*, 5 Wall. 107), but it may help to interpret its meaning. In the case of *United States vs. Fisher* (2 Cranch, 358, 386), Chief Justice Marshall said: "On the influence which the title ought to have in construing the enacting clauses much has been said; and yet it is not easy to discern the point of difference between the opposing counsel in this respect. Neither party contends that the title of an act can control plain words in the body of the statute; and neither denies that, taken with other parts, it may assist in removing ambiguities. *Where the intent is plain, nothing is left to construction. Where the mind labors to discover the design of the legislature, it seizes everything from which aid can be derived*; and in such case the title claims a degree of notice, and will have its due share of consideration;" and in the case of *United States vs. Palmer* (3 Wheaton, 610, 631), the same judge applied the doctrine in this way: "The words of the section are in terms of unlimited extent. The words 'any person or persons' are broad enough to comprehend every human being. But general words



must not only be limited to cases within the jurisdiction of the State, but also to those objects to which the legislature intended to apply them. Did the legislature intend to apply these words to the subjects of a foreign power, who in a foreign ship may commit murder or robbery on the high seas? The title of an act cannot control its words, but may furnish some aid in showing what was in the mind of the legislature. The title of this act is, 'An act for the punishment of certain crimes against the United States.' It would seem that offenses against the United States, not offenses against the human race, were the crimes which the legislature intended by this law to punish."

It will be seen that words as general as those used in the first section of this act were by that decision limited, and the intent of Congress with respect to the act was gathered partially, at least, from its title. Now, the title of this act is, "An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia." Obviously the thought expressed in this, reaches only to the work of the manual laborer, as distinguished from that of the professional man. No one reading such a title would suppose that Congress had in its mind any purpose of staying the coming into this country of ministers of the gospel, or, indeed, of any class whose toil is that of the brain. The common understanding of the terms labor and laborers does not include preaching and preachers; and it is to be assumed that words and phrases are used in their ordinary meaning. So whatever of light is thrown upon the statute by the language of the title, indicates an exclusion from its penal provisions of all contracts for the employment of ministers, rectors, and pastors.

Again, another guide to the meaning of a statute is found in the evil which it is designed to remedy; and for this the court properly looks at contemporaneous events, the situation as it existed, and as it was pressed upon the attention of the legislative body. (*United States vs. Railroad Company*, 91 U. S. 72, 79.) The situation which called for this statute was briefly but fully stated by Mr. Justice Brown, when, as district judge, he decided the case of *United States vs. Craig* (28 Fed. Rep. 795, 798); "The motives and history of the act are matters of common knowledge. It has become the practice for large capitalists in this country to contract with their agents abroad for the shipment of great numbers of an ignorant and servile class of foreign laborers, under contracts, by which the employer agreed, upon the one hand, to prepay their passage, while, upon the other hand, the laborers agreed to work after their arrival for a certain time at a low rate of wages. The effect of this was to break down the labor market, and to reduce other laborers engaged in like occupations to the level of the assisted immigrant. The evil finally became so flagrant

that an appeal was made to Congress for relief by the passage of the act in question, the design of which was to raise the standard of foreign immigrants, and to discountenance the migration of those who had not sufficient means in their own hands, or those of their friends, to pay their passage."

It appears, also, from the petitions, and in the testimony presented before the committees of Congress, that it was this cheap, unskilled labor which was making the trouble, and the influx of which Congress sought to prevent. It was never suggested that we had in this country a surplus of brain toilers, and, least of all, that the market for the services of Christian ministers was depressed by foreign competition. Those were matters to which the attention of Congress, or of the people, was not directed. So far, then, as the evil which was sought to be remedied interprets the statute, it also guides to an exclusion of this contract from the penalties of the act.

A singular circumstance, throwing light upon the intent of Congress, is found in this extract from the report of the Senate Committee on Education and Labor, recommending the passage of the bill: "The general facts and considerations which induce the committee to recommend the passage of this bill are set forth in the report of the Committee of the House. The committee report the bill back without amendment, although there are certain features thereof which might well be changed or modified, in the hope that the bill may not fail of passage during the present session. Especially would the committee have otherwise recommended amendments, substituting for the expression, 'labor and service,' whenever it occurs in the body of the bill, the words, 'manual labor' or 'manual service,' as sufficiently broad to accomplish the purposes of the bill, and that such amendments would remove objections which a sharp and perhaps unfriendly criticism may urge to the proposed legislation. The committee, however, believing that the bill in its present form will be construed as including only those whose labor or service is manual in character, and being very desirous that the bill become a law before the adjournment, have reported the bill without change." (6059, Congressional Record, 48th Congress.) And referring back to the report of the Committee of the House, there appears this language: "It seeks to restrain and prohibit the immigration or importation of laborers who would have never seen our shores but for the inducements and allurements of men whose only object is to obtain labor at the lowest possible rate, regardless of the social and material well-being of our own citizens, and regardless of the evil consequences which result to American laborers from such immigration. This class of immigrants care nothing about our institutions, and in many instances never even heard of them; they are men whose passage is paid by the importers; they come here under contract to labor for a certain number of years; they are ignorant of our social condition, and that they may remain so they are

isolated and prevented from coming to contact with Americans. They are generally from the lowest social stratum, and live upon the coarsest food and in hovels of a character before unknown to American workmen. They, as a rule, do not become citizens, and are certainly not a desirable acquisition to the body politic. The inevitable tendency of their presence among us is to degrade American labor, and to reduce it to the level of the imported pauper labor." (Page 5359, Congressional Record, 48th Congress.)

We find, therefore, that the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to Congress, the reports of the committee of each house, all concur in affirming that the intent of Congress was simply to stay the influx of this cheap unskilled labor.

But beyond all these matters no purpose of action against religion can be imputed to any legislation, State or national, *because this is a religious people. This is historically true. From the discovery of this continent to the present hour there is a single voice making this affirmation.* The commission to Christopher Columbus, prior to his sail westward, is from "Ferdinand and Isabella, by the grace of God, King and Queen of Castile," etc., and recites that "it is hoped that by God's assistance some of the continents and islands in the ocean will be discovered," etc. The first colonial grant, that made to Sir Walter Raleigh in 1584, was from "Elizabeth, by the grace of God, of England, Fraunce, and Ireland, queene, defender of the faith," etc.; and the grant authorizing him to enact statutes for the government of the proposed colony provided that "they be not against the true Christian faith nowe professed in the Church of England." The first charter of Virginia, granted by King James I, in 1606, after reciting the application of certain parties for a charter, commenced the grant in these words: "We, greatly commending and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of Christian religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet Government; DO, by these our Letters-Patents, graciously accept of, and agree to, their humble and well-intended Desires."

Language of similar import may be found in the subsequent charters of that colony, from the same King, in 1609 and 1611; and the same is true of the various charters granted to the other colonies. *In language more or less emphatic is the establishment of the Christian religion declared to be one of the purposes of the grant.* The celebrated compact made by the Pilgrims

in the Mayflower, 1620, recites: "Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid."

The fundamental orders of Connecticut, under which a provisional government was instituted in 1638-1639, commence with this declaration: "Forasmuch as it hath pleased the Almighty God by the wise disposition of his diuine prudence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Hartford, and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing; And well knowing where a people are gathered together the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent Gouvernment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require; doe therefore assotiate and conioyne our selues to be as one Publike State or Commonwealth; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation together, to mayntayne and presearue the liberty and purity of the gospell of our Lord Jesus w<sup>ch</sup> we now p<sup>r</sup>fesse, *as also the disciplyne of the Churches, wch according to the truth of the said gospell is now practiced amongst vs.*"

In the charter of privileges granted by William Penn to the province of Pennsylvania, in 1701, it is recited: "Because no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship; And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare," etc.

Coming nearer to the present time, the Declaration of Independence recognizes the presence of the Divine in human affairs in these words: "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." "We, therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name and by Authority of the good People of these Colonies, solemnly publish and declare," etc.: "And for



the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor."

If we examine the constitutions of the various States we find in them a constant recognition of religious obligations. Every constitution of every one of the forty-four States contains language which either directly or by clear implication recognizes a profound reverence for religion and an assumption that its influence in all human affairs is essential to the well being of the community. This recognition may be in the preamble, such as is found in the Constitution of Illinois, 1870: "We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations," etc.

It may be only in the familiar requisition that all officers shall take an oath closing with the declaration "*so help me God.*" It may be in clauses like that of the Constitution of Indiana, 1816, Article XI, section 4: "The manner of administering an oath or affirmation shall be such as is most consistent with the conscience of the deponent, and shall be esteemed the most solemn appeal to God." Or in provisions such as are found in Articles 36 and 37 of the Declaration of Rights of the Constitution of Maryland, 1867: "That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty; wherefore, no person ought, by any law, to be molested in his person or estate on account of his religious persuasion or profession, or for his religious practice, *unless, under the color of religion, he shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights*; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship, or any ministry; nor shall any person, otherwise competent, be deemed incompetent as a witness, or juror, on account of his religious belief: *Provided, He believes in the existence of God, and that, under His dispensation, such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.* That no religious test ought ever to be required as a qualification for any office of profit or trust in this State, *other than a declaration of belief in the existence of God*; nor shall the legislature prescribe any other oath of office than the oath prescribed by this constitution." Or like that in Articles 2 and 3, of Part 1st, of the Constitution of Massachusetts, 1780: "It is the right as well as *the duty* of all men in society publicly and at stated seasons, to worship the Supreme Being, the great Creator and Pre-

server of the universe. . . . *As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through a community but by the institution of the public worship of God and of public instructions in piety, religion, and morality:* Therefore, to promote their happiness and to secure the good order and preservation of their government, the people of this commonwealth have a right to *invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, and other bodies-politic or religious societies to make suitable provisions, at their own expense, for the institution of the public worship of God and for the support and maintenance of public Protestant teachers of piety, religion, and morality in all cases where such provision shall not be made voluntarily.*" Or as in sections 5 and 14 of Article 7, of the Constitution of Mississippi, 1832: "*No person who denies the being of a God, or a future state of rewards and punishments, shall hold any office in the civil department of this State. . . . Religion, morality, and knowledge being necessary to good government, the preservation of liberty, and the happiness of mankind, schools, and the means of education, shall forever be encouraged in this State.*" Or by Article 22 of the Constitution of Delaware, 1776, which required all officers, besides an oath of allegiance, to make and subscribe the following declaration: "I, A. B., do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, one God, blessed for evermore; and I do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration."

*Even the Constitution of the United States*, which is supposed to have little touch upon the private life of the individual, contains in the First Amendment a declaration common to the constitutions of all the States, as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof," etc. And also provides in Article 1, section 7 (a provision common to many constitutions), that the Executive shall have ten days (Sundays excepted) within which to determine whether he will approve or veto a bill.

*There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and re-affirm that this is a religious nation.* These are not individual sayings, declarations of private persons; they are organic utterances; *they speak the voice of the entire people.* While because of a general recognition of this truth, the question has seldom been presented to the courts, yet we find that in *Updegraph vs. The Commonwealth* (11 Serg. & Rawle, 394, 400), it was decided that "*Christianity, general Christianity, is, and always has been,*

*a part of the common law of Pennsylvania*; . . . not Christianity with an established church, and tithes, and spiritual courts; but Christianity with liberty of conscience to all men." And in *The People vs. Ruggles* (8 Johns. 290, 294, 295), *Chancellor Kent*, the great commentator on American law, speaking as Chief Justice of the Supreme Court of New York, said: "The people of this State, in common with the people of this country, profess the general doctrines of Christianity, as the rule of their faith and practice; and to scandalize the Author of these doctrines is not only, in a religious point of view, extremely impious, but, even in respect to the obligations due to society, is a gross violation of decency and good order. . . . The free, equal, and undisturbed enjoyment of religious opinion, whatever it may be, and free and decent discussions on any religious subject, is granted and secured; *but to revile, with malicious and blasphemous contempt, the religion professed by almost the whole community, is an abuse of that right.* Nor are we bound, by any expressions in the Constitution, as some have strangely supposed, either not to punish at all; or to punish indiscriminately, the like attacks upon the religion of *Mahomet* or of the *Grand Lama*; and for *this plain reason*, that the case assumes that we are a Christian people, and the morality of the country is deeply ingrafted upon Christianity, and not upon the doctrines or worship of those impostors." And in the famous case of *Vidal vs. Girard's Executors* (2 How. 127, 198), this court, while sustaining the will of Mr. Girard, with its provision for the creation of a college into which no minister should be permitted to enter, observed: "It is also said, and truly, that the *Christian religion* is a *part of the common law of Pennsylvania.*"

If we pass beyond these matters to a view of American life as expressed by its laws, its business, its customs and its society, we find everywhere a clear recognition of the same truth. Among other matters note the following: The form of oath universally prevailing, concluding with an appeal to the Almighty; the custom of opening sessions of all deliberative bodies and most conventions with prayer; the prefatory words of all wills, "In the name of God, amen;" *the laws respecting the observance of the Sabbath; with the general cessation of all secular business*, and the closing of courts, legislatures, and other similar public assemblies on that day, the churches and church organizations which abound in every city, town, and hamlet; the multitude of charitable organizations existing everywhere under Christian auspices; the gigantic missionary associations, with general support, and aiming to establish Christian missions in every quarter of the globe. *These, and many other matters which might be noticed, add a volume of unofficial declarations in the mass of organic utterances that this is a Christian nation.* In the face of all these, shall it be believed that a

Congress of the United States intended to make it a misdemeanor for a church of this country to contract for the services of a Christian minister residing in another nation?

Suppose in the Congress that passed this act some member had offered a bill which in terms declared that, if any Roman Catholic church in this country should contract with Cardinal Manning to come to this country and enter into its service as pastor and priest; or any Episcopal church should enter into a like contract with Canon Farrar; or any Baptist church should make similar arrangements with Rev. Mr. Spurgeon; or any Jewish synagogue with some eminent Rabbi, such contract should be adjudged unlawful and void, and the church making it be subject to prosecution and punishment, can it be believed that it would have received a minute of approving thought or a single vote? Yet it is contended that such was in effect the meaning of this statute. The construction invoked cannot be accepted as correct. It is a case where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil, and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against. It is the duty of the courts, under those circumstances, to say that, however broad the language of the statute may be, the act, although within the letter, is not within the intention of the legislature, and therefore cannot be within the statute.

The judgment will be reversed, and the case remanded for further proceedings in accordance with this opinion.

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