

Sunday Laws-A lurking danger!

by James Standish
Director of Legislative Affairs
General Conference of the Seventh-day Adventist Church

An issue that has been of vital importance to Seventh-day Adventists since our beginnings is Sunday laws. Adventists resolutely oppose Sunday laws.

There are three primary reasons for this opposition. The first reason Adventists oppose Sunday laws is that the governmental enforcement of Sunday rest is a violation of freedom of conscience. Some claim that Sunday laws do not violate the religious scruples on non-Sunday keepers because they do not force non-Sunday keepers to go to church or engage in other religious activity.

Those that make such claims forget that the act of rest on a holy day is in itself a religious activity. In fact, the only religious activity that the Ten Commandments require on the Sabbath is to cease from work. Therefore, forcing non-Sunday keepers to keep Sunday holy by resting is in itself a violation of their religious freedom. In addition, forcing Seventh-day Adventists, Jews, Seventh-day Baptists and members of the Church of God (seventh-day), who already shut their businesses on Saturday to shut them on Sunday as well creates an impermissible economic burden on their religious practice. As such, Sunday laws violate the guarantee of the free exercise of religion found in The First Amendment of the U.S. Constitution.

Sunday laws also violate the Establishment Clause of the First Amendment. The Establishment Clause forbids the government from enforcing or Promoting religion. This is precisely what Sunday laws do by enforcing a Religious holy day rest. Finally, Seventh-day Adventists oppose all civil enforcement of Religious doctrines, but civil enforcement of false doctrines is particularly galling.

Sunday laws establish through civil power a false Sabbath. The seventh Day of the week was declared holy at creation. It was confirmed in the Ten Commandments. Jesus kept Sabbath on the seventh day, Saturday. Early Christians also kept Sabbath on the seventh day (the book of Acts mentions the Sabbath nine times, including instances of Gentiles keeping the Sabbath and Sabbath meetings that did not occur in Synagogues - each time it is clear that it is referring to the seventh day Sabbath. In addition, there is overwhelming evidence that early Christians kept Sabbath on the seventh day, Saturday).

While Seventh-day Adventists respect the right of all to rest and worship on the day of their choice, and we actively promote legal protections to ensure that people can do just that, we oppose the establishment of any particular group's holy day as an official national day of rest.

Unfortunately, despite the overwhelming evidence of the religious origin, motivation and impact of Sunday laws, the Supreme Court has upheld such laws as constitutional.

In 1961, the Supreme Court decided cases challenging the constitutionality of Sunday closing laws. The Supreme Court went through a lengthy analysis of the origins and the nature of Sunday laws at the time of the cases. It acknowledged that Sunday laws have a religious origin, quoting from various state and colonial laws that contained

reference to the "Lord's Day," prohibitions against "profaning the Sabbath" and other similar blatantly religious language. Nevertheless, the Court found that by the 1960's the motivation behind Sunday laws was the protection of workers' rights.

Thus, as Sunday laws now protect worker's rights rather than enforcing Religious doctrine, they do not establish a religious belief. In addition, the Court also found that Sunday laws do not violate the Equal Protection Clause or the Free Exercise of Religion Clause of the Constitution. It is worth taking the time to read the Court's opinion for yourself to see the reasoning the Court employed. It is particularly interesting to read the dissenting opinions in each case, which are located at the end of the discussion. You can visit the cases at: *McGowan v. Maryland* (Sunday laws are not laws pertaining to the establishment of a religion); *Braunfeld v. Brown* (Sunday laws do not violate the guarantee of freedom of religion or equal protection).

Adventists are not alone, however, in opposing the constitutionality of Sunday laws. For example, Justice Stewart joined with Justice Brennan in dissenting to the Court's opinion in *Braunfeld*. He noted in his dissenting opinion that: "I think the impact of this [Sunday] law upon these appellants grossly violates their constitutional right to the free exercise of Their religion."

Similarly, Justice Douglas dissented in *McGowan*, stating: "The Court picks and chooses language from various decisions to bolster its conclusion that these Sunday laws in the modern setting are 'civil regulations.' No matter how much is written, no matter what is said, the parentage of these laws is the Fourth Commandment; and they serve and satisfy the religious predispositions of our Christian communities... It seems to me plain that by these laws the States compel one, under sanction of law, to refrain from work or recreation on Sunday because of the majority's religious views about that day."

It is over forty years since these cases were decided. This raises the question whether the Court has subsequently found Sunday laws violate the Constitution. The answer is no. In fact, the Supreme Court has confirmed the concept that Sunday laws are constitutional relatively recently. In 1990 the Supreme Court decided *Employment Division v. Smith*. Justice Scalia writing for the majority of the Court in this case used Sunday laws as an example of the types of laws that impact on people's ability to practice their faith but that are nevertheless constitutional. He stated:

"Subsequent decisions have consistently held that the right of free exercise does not relieve an individual of the obligation to comply with a "valid and neutral law of general applicability... In *Braunfeld v. Brown*,... we upheld Sunday-closing laws against the claim that they burdened the religious practices of persons whose religions compelled them to refrain from work on other days."

This raises one final obvious question - if Sunday laws have been interpreted by the Supreme Court to be constitutional, why aren't we forbidden from working on Sunday? Currently the national mood does not support the passage or enforcement of Sunday laws. Thus, as we live in a democracy with legislators who are sensitive to the mood of the populace, there is no great effort to pass Sunday laws or to enforce the Sunday laws that remain on the books. **If and when the public mood changes, however, Sunday laws can be passed and enforced with criminal penalties and courts will do nothing to stop it.**

At the time of writing (October 2001), there are no bills pending in Congress to pass a national Sunday law. Whenever such a proposal is made, Seventh-day Adventists

will vigorously oppose it as we are told that we are "not doing the will of God if we sit in quietude, doing nothing to preserve liberty of conscience."

In conclusion, Adventists support laws that protect workers - including Laws that limit the number of hours that can be worked during the week. We actively support laws that encourage employers to give employees time off on the holy days of the employee's choice (see the description of the Workplace Religious Freedom Act on this page). In addition, we encourage people of faith to follow their conscience and take their holy days off work. We oppose, however, the imposition of Sunday rest through civil legislation. From: <http://ola.adventist.org/currentissues.htm#sunday>