

Postmasters to violate the law of God, and of the several States made in pursuance thereof, is constitutional, it may be well to examine still further.

Power of the Supreme Court.

"But the judiciary of the United States has no general jurisdiction to declare acts of the several States void, unless they are repugnant to the Constitution of the United States."—(Story's Commentary on the Constitution, page 687.) Now, if the Sabbath-laws of the States are not repugnant to the Constitution, (which no one pretends, but which all, on the contrary, believe to be in exact accordance with that instrument, and the practice of the Government which administers it, except in the case of Postmasters, as above,) then it is most evident that the law requiring labor on Sunday is unconstitutional and void.

Powers when in States.

"But as the plan of the Convention aims only at a partial union, or consolidation, the State Governments would clearly retain all the rights of sovereignty which they before had, and which were not by that act exclusively delegated to the United States."—(Ibid, pages 148, 149.) The States had a right to Sabbath laws before the union, and they never delegated such right to the United States.

Powers not delegated.

"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." (Amendment of the Constitution.)

"It is a general principle that all corporate bodies possess all powers incident to a corporate capacity, without being absolutely expressed."—(Story's Commentary, page 752—§ 1,900.) "All powers not delegated, and not prohibited, are reserved."—(Ibid, page 753.)

This is a Christian nation.

A few more extracts may now be added on this topic, before entering upon the last position in the argument. "Now there

will probably be found few persons in this or any other Christian country, who would deliberately contend that it was unreasonable or unjust to foster and encourage the Christian religion generally, as a matter of sound policy, as well as of revealed truth. In fact, every American colony, from its formation down to the revolution, with the exception of Rhode Island, (if, indeed, that State be an exception,) did openly, by the whole course of its laws and institutions, support and sustain, in some form, the Christian religion; and almost invariably gave a peculiar sanction to some of its fundamental doctrines. And this has continued to be the case in some of the States down to the present period, without the slightest suspicion that it was against the principles of public law, or republican liberty. Indeed, in a republic, there would seem to be a peculiar propriety in viewing the Christian religion as the great basis on which it must rest for its support and permanence, if it be what it ever has been deemed by its truest friends to be, the religion of liberty.”—(Story’s Commentary, § 1,867.)

Establishment of Religion.

“Congress shall make no law respecting an establishment of religion.”—(Constitution.)

“Probably at the time of the adoption of the Constitution, and of the amendment to it now under consideration, the general, if not the universal sentiment in America was, that Christianity ought to receive encouragement from the States, so far as it is not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religion, and to make it a matter of State policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.”—(Story’s Commentary, § 1868.)

“The real object of the amendment was, not to countenance, much less to advance, Mohammedanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment, which would give to an hierarchy the exclusive patronage of the national Government.”—Ibid, pages 700, 701.)

Language used in the ordinance for the Government of Territories, &c., July 13, 1787.

“For extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in said territory,” &c.—all laws and constitutions on the basis of *Christianity*, &c.—(See Appendix to Story’s U. S. Laws, page 4.)

“Religion, morality, and knowledge being necessary to good government and the happiness of mankind,” &c.—(Ibid, art. 3.)

Speaking of the times of holding courts in Vermont, it is said, “and when either of the said days shall happen on a Sunday, the said courts hereby directed to be holden on such day, shall be holden on the day next thereafter.”—(Ibid, page 861.) This does not look like the language of a heathen or infidel nation, nor like disowning a Sabbath.

Bishop M’Ilvaine’s Thanksgiving Sermon, December 14, 1837.

A few extracts will now be given from “A Sermon preached on the day of public thanksgiving and prayer, in the chapel of Kenyon College, by Right Rev. C. P. M’Ilvaine,” and from its appendix. For the authorities in the appendix, the author acknowledges his indebtedness to a discourse by Rev. J. Adams, President of Charleston College, S. C., “on the relation of Christianity to civil governments.”

The quotations are numerous, in order that opposers to Christianity, who deny that this nation has adopted any religion, may see their error.

“That some one religion, and *that* the Christian religion, is recognized as the religion of this nation and Government, and, as such, is interwoven in its laws and has a legal preference, though not ‘*establishment*,’ (in technical language,) over whatever else has the name of religion, and especially over all forms of infidelity, we need no better assurance than the judgment of one whose seat is upon the bench of the Supreme Court of these United States; whose business is the interpretation of the nation’s laws, and whose qualification for that work there are

none to dispute. Thus writes Mr. JUSTICE STORY: 'One of the most beautiful boasts of our municipal jurisprudence, is that Christianity is a part of the common law, from which it seeks the sanction of its rights, and by which it endeavors to regulate its doctrines. And the boast is as true as it is beautiful. There never has been a period in which the common law did not recognize Christianity as lying at its foundation. It pronounces illegal, every contract offensive to its morals. It recognizes, with profound humility, its holidays and festivals, and obeys them as "*dies non juridici*." It still attaches to persons believing in its divine authority, the highest degree of competency as witnesses; and until a comparatively recent period, infidels and pagans were banished from the halls of justice, as unworthy of credit.'—*Inaugural Address at Harvard Institute.*

"Here, then, is one of our subjects of thankfulness to-day. We pause not to ask how far these truths are all sustained in the practice of our Government; how far the '*dies non juridici*,' the Sabbaths of our land, are honored, when the representatives of a Christian people, in Congress assembled, find it convenient, at the close of a session, to employ its hallowed hours for purposes of hurried and clamorous legislation. We confine our attention to the bright spots in the picture; and are thankful that our system of government, our common law, and administration of justice, were instituted by men having the wisdom to see how entirely the liberties and interests of this nation are dependent upon the teaching and keeping of the truths and institutions of Christianity; yea, and we are further thankful that we have still the eminent men, the official interpreters of our laws, who are not ashamed to maintain, unblinded by the new light which has recently been thrown on this subject, that Christianity is the legally recognized religion of our Government."

From the Appendix.

"That Christianity is the religion of this country, and, as such, is recognized in the whole structure of its Government, and lies at the foundation of all our civil and political institu-

tions ; in other words, that Christianity, as really as republicanism, is part and parcel of our laws, is evident from the following :

“ 1. Such was the relation of Christianity to civil government in the several States as they existed prior to the formation of the present federal Constitution, and there is no evidence that in acceding to said Constitution, they surrendered such relation, either in the General, or in their own particular Governments.

“ The colonies from which our present States originated, were planted by decidedly Christian people, to be Christian communities, and with such views of the relations between civil government and religion as were then universal in Christendom. The experiment of a nation without an established religion had not then been tried ; nor did they think of instituting it. Christianity, therefore, was made part of their civil institutions, as well in their minuter branches as in their essential foundations.

“ In Massachusetts, and other northern colonies, a membership in the church established by law, was necessary to citizenship in the Commonwealth. In Virginia, and other southern colonies, the Church of England was by law established.

“ By and by, when the colonial character had ceased, and that of States had been assumed, the legal establishment of any one form of Christianity, in preference to all other forms of the same, was discontinued. In the adoption of the present federal Constitution, it was declared, among the amendments to that instrument, that ‘ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.’ This article in the general Constitution, and the similar alterations in the laws of the several States above mentioned, by which the legal precedence of one form of Christianity over another was done away, are all the ground on which it can be asserted that either our General or State Governments have disowned all connection with the Christian religion, as having any more countenance in their legislation than infidelity or Mohammedanism. But is this a warrantable conclusion ? Is it not perfectly conceivable that Christianity may be the religion of the people, and of the people’s Government, so far as that her great principles shall be assumed as the basis of their institu-

tions, and the promotion of those principles distinctly countenanced in their laws and customs, at the same time that no religion is, in the technical sense, 'established,' and no one form of Christianity is distinguished above another? To call religion into connection with the Government, so far as to employ ministers of the gospel as chaplains, at the public charge, in Congress, and other public departments, is decided, by long-established practice, to be not unconstitutional. And thus it is decided that it was not intended by the article quoted above from the Constitution of the United States, to prevent the Government of the United States from being connected with religion; with some religion in preference to all others; or to base its institutions upon the principles of Christianity, instead of those of Deism or of the Koran.

"How unlikely were the several States, in acceding to the present Constitution, to lay aside all connection with Christianity in the general institutions to which they gave birth, may be inferred from the consideration that in their own respective legislation, a close relation between religion and the Government had always subsisted; and though a strong aversion had arisen to the *national establishment* of any one form of Christianity, none had grown up against a distinct recognition of Christianity itself as a religion of the nation; that the representatives of the States in the Convention which formed the present Constitution were, for the most part, men of decidedly Christian principles; and lastly, that in that Convention '*prayer was wont to be made.*' * *

"2. It is evident from sundry acts and institutions of the General Government, and the constitutions of the several States, not only that Christianity is not excluded from all connection with our civil institutions, but that it is positively asserted as connected therewith in a very important degree.

The Constitution of Vermont declares the duty of all Christians to observe the Sabbath and maintain public worship according '*to the revealed will of God.*' The Constitution of Massachusetts expressly assigns as a reason for certain provisions that the encouragement of art, science, and all good literature tends *to the honor of God, the advantage of the Christian religion, &c.* The

Constitution of New Jersey provides that 'all persons professing a belief in the faith of any *Protestant* sect shall be capable of being elected,' &c. That of Delaware declares the duty of people to assemble for public worship, and that piety and morality are thereby promoted. Maryland makes '*a declaration of belief in the Christian religion*' necessary to admission to office. North Carolina provides that no persons who shall deny the truth of the Protestant religion or the Divine authority of the Old or New Testament, shall be capable of holding any office in the civil department of the state. * * *

"Not only does the Constitution of the United States thus assert that the Lord Jesus Christ is '*our Lord*' as a nation, but it legislates with regard to the *Lord's* day in such a manner as to teach that to us, as a nation, it is *our* sacred day. It provides that if any bill shall not be returned by the President within ten days (*Sundays excepted*,) after it shall be presented to him,' &c. But why are Sundays excepted? Because, in the view of the law, they are *dies non juridici*, not working days in jurisprudence. Why? Evidently because the Sabbath is the holy day of the Christian religion. But the Constitution does not except the Sabbath of the Jews, or the holy days of the Koran. The inference is inevitable that it has adopted the Christian Sabbath, to the exclusion of the holy days of all other religions, and has thus taken it for granted that Christianity is the professed religion of this government. In accordance with this, not only the President, but both Houses of Congress, the officers of the State, Treasury, Navy, and War Departments, are all discharged from work on the Lord's day; their bureaus are closed. The Supreme Court of the United States is by *law* directed to suspend its session on that day. The government appoints and maintains ministers of the Gospel as chaplains in the navy. It is part of the laws of the government of the navy as enacted by Congress in 1800, that 'the commanders of all vessels in the navy, having chaplains on board, shall take care that Divine service be performed in a solemn, orderly, and reverent manner twice a day, and a sermon preached on Sunday; and *that they cause all, or as many of the ship's company as can be spared from duty, to attend every performance of the worship of Almighty God.*'

"In the laws regulating the army of the United States, 'it is earnestly recommended to all officers and soldiers diligently to attend Divine service.' Punishment is provided for any officer or soldier 'who shall behave irreverently at any place of Divine worship.' The officers and cadets of the Military Academy of the United States are positively required by law to attend Divine worship on Sunday. By an act of Congress in 1808, the appointment of a chaplain to each brigade of the army was provided for. By act of Congress in 1816, the appointment and compensation of a chaplain to each of its houses was provided for. Provision was made by the same authority in 1818, for a chaplain to the Military Academy of the United States. The head of the Department of War (Governor Cass) in his official report for 1832, thus urges on the government an appropriation for the building of a suitable place of Christian worship at West Point: 'In a Christian community (he says) the obligations upon this subject will not be questioned; and the expense of providing a suitable place of worship, especially as a chaplain is maintained there, cannot be put in competition with the permanent advantages of a course of religious instruction to such a number of persons; a large portion of whom are at that critical period which determines whether the future course of life shall be for evil or for good.'

"3. That Christianity is the professed religion of this government, and as such is laid at the foundation of our civil and political institutions, is the solemnly expressed opinion of our wisest official interpreters of law. The opinion of Mr. JUSTICE STORY, of the Supreme Court of the United States, has already been given. We will now add the decisions of the supreme courts of Massachusetts, New York, and Pennsylvania.

"Thus speaks the late CHIEF JUSTICE PARSONS, in delivering the opinion of the SUPREME COURT OF MASSACHUSETTS, in the case of *Barnes vs. First Parish in Falmouth*:—

"'In selecting a religion, the people were not exposed to the hazard of choosing a false and defective religious system; Christianity had long been promulgated, its pretensions and excellences well known, and its Divine authority admitted. This religion was found to rest on the basis of immortal truth; to con-

tain a system of morals adapted to man in all possible ranks and conditions, situations and circumstances, by conforming to which he would be ameliorated and improved in all the relations of human life ; and to furnish the most efficacious sanctions, by bringing to light a future state of retribution. And this religion, as understood by Protestants, tending by its efforts to make every man, submitting to its influences, a better husband, parent, child, neighbor, citizen, and magistrate, was by the people established as a fundamental and essential part of their Constitution.'

" Thus speaks CHANCELLOR KENT, in delivering the opinion of the Supreme Court of New York, 1818, in a trial for blasphemy, —(People *vs.* Ruggles.) After saying that 'contumelious reproaches and profane ridicule of Christ and the sacred Scriptures (which are treated as blasphemy) are offences punishable at common law,' he proceeds :

" '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.'

" Again: 'Though the Constitution has discarded religious establishments, it does not forbid judicial cognizance of those offences against religion and morality which have no reference to any such establishment or to any particular form of government, but are punishable, because they strike at the root of moral obligation, and weaken the security of the social ties. The legislative exposition of the Constitution is conformable to this view of it. Christianity, in its enlarged sense, as a religion revealed and taught in the Bible, is not unknown to our law. *The statute for preventing immorality* (Laws, vol. i. p. 224) consecrates the first day of the week as holy time, and considers the violation of it immoral. *The act concerning oaths* (Laws, vol. i. p. 405) recognizes the common law mode of administering an oath, 'by laying the hand on and kissing the gospels.' Surely, then, we are bound to conclude that wicked and malicious words, writings, and actions, which go to vilify those gospels, continue, as at common law, to be an offence against the

public peace and safety. They are inconsistent with the reverence due to the administration of an oath, and, among other evil consequences, they tend to lessen in the public mind its religious sanction.'

"All the justices concurred in this decision.

"In 1821, when a convention of New York revised the Constitution of the State, the decision above quoted was violently assailed by General Root, as hostile to liberty of conscience, when its learned author with equal clearness, defended it. The following is an extract from his speech on that occasion :

" 'The authors of our Constitution never meant to extirpate Christianity, more than they meant to extirpate public decency. It is in a degree recognized by the statute for the observance of the Lord's day, and for the mode of administering oaths. The court never intended to interfere with any religious creeds or sects, or with religious discussions. They meant to preserve, so far as it came within their cognizance, the morals of the country, which rested on Christianity as the foundation. They meant to apply the principles of common law against blasphemy, which they did not believe the Constitution ever meant to abolish. Are we not a Christian people? Do not ninety-nine hundredths of our fellow citizens hold the general truths of the Bible to be dear and sacred? To attack them with ribaldry and malice, in the presence of these very believers, must and ought to be a serious public offence. It disturbs, and annoys, and offends, and shocks, and corrupts the public taste. The common law, as applied to correct such profanity, is the application of common reason and natural justice to the security of the peace and good order of society.'

"Thus speaks the SUPREME COURT OF PENNSYLVANIA, on the case of *Updegraph vs. the Commonwealth*, (trial on an indictment for blasphemy :

" 'Christianity, general Christianity, is, and always has been, a part of the common law of Pennsylvania; not Christianity founded on any particular religious tenets; not Christianity with an established church and tithes, and spiritual courts; but Christianity with liberty of conscience to all men. The first legislative act in the colony was the recognition of the Christian reli-

gion, and establishment of liberty of conscience. * * This is the Christianity of the common law, incorporated into the great law of Pennsylvania; and thus it is irrefragably proved that the laws and institutions of this State are built on the foundation of reverence for Christianity. On this the Constitution of the United States has made no alteration, nor in the great body of the laws which was an incorporation of the common law doctrine of Christianity, as suited to the condition of the colony; and without which no free government can long exist. Under the Constitution, penalties against cursing and swearing have been exacted. If Christianity was abolished, all false oaths, all tests by oath in the common form by the book, would cease to be indictable as perjury. The indictment must state the oath to be on the holy Evangelists of Almighty God. * * No society can tolerate a wilful and despiteful attempt to subvert its religion, no more than it would to break down its laws, a general, malicious, and deliberate intent to overthrow Christianity, general Christianity. This is the line of indication, where crime commences, and the offence becomes the subject of penal visitation. The species of offence may be classed under the following heads. 1. Denying the being and providence of God. 2. Contumelious reproaches of Jesus Christ; profane and malevolent scoffing at the Scriptures, or exposing any part of them to contempt and ridicule. 3. Certain immoralities tending to subvert all religion and morality, which are the foundation of all governments. Without these restraints, no free government could long exist. It is liberty run mad, to declaim against the punishment of these offences, or to assert that the punishment is hostile to the spirit and genius of our Government. They are far from being the friends to liberty who support this doctrine: and the promulgation of such opinions, and general receipt of them among the people, would be the sure forerunner of anarchy, and finally of despotism. No free government now exists in the world unless where Christianity is acknowledged, and is the religion of the country. Christianity is part of the common law of this State. It is not proclaimed by the commanding voice of any human superior, but expressed in the calm and mild accents of customary law. Its foundations are broad, and strong, and deep; they are

laid in the authority, the interest, the affections of the people. Waiving all questions of a hereafter, it is the purest system of morality, the firmest auxiliary, and only stable support of all human laws. It is impossible to administer the laws without taking the religion which the defendant in error has scoffed at, that Scripture which he has reviled, as their basis ; to lay aside these, is at least to weaken their confidence in human veracity so essential to the purposes of society, and without which no question of property could be decided, and no criminal brought to justice ; an oath in the common form on a discredited book would be a most idle ceremony. No preference is given by law to any particular persuasion. Protection is given to all by our laws. It is only the malicious reviler of Christianity, who is punished. While our own free Constitution secures liberty of conscience and freedom of religious worship to all, it is not necessary to maintain that any man should have the right publicly to vilify the religion of his neighbors and of the country.' ”

See further remarks on this subject in “Objections Answered,” Objection No. 7, Chap. V.

Practice of Congress.

It has already been said that this law is opposed to the practice of the national Legislature. They claim exemption from their ordinary labors on Sunday, while compelling their servants in the various Postoffices of the country to keep open doors and transact business every day in the week. During the last session of Congress, (on the 12th of May and the 8th of July,) the House was not permitted to proceed with business, on Sunday morning, by the steady and firm resistance of a large number of members, who refused to recognize the propriety of proceeding with their ordinary business on that day. The votes for adjournment were nearly equally divided, and more than once lost by the casting vote of the chair. Members then declared that they would leave the house and not return before Monday morning, unless brought in by force, and very properly contended that no authority existed to compel their attendance on the Lord's day ; and the House, on both occasions, was compelled to adjourn, though in the last instance not until eight o'clock, A. M.,