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Religious Liberty Endangered by Legislative Enactments.

AN APPEAL TO THE.

FRIENDS OF EQUAL RIGHTS AND RELIGIOUS FREEDOM, IN THE UNITED STATES, FROM THE SEVENTH-DAY BAPTIST GENERAL CONFERENCE.

1846
NEW YORK:

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The Seventh-day Baptist General Conference held its Forty-second Anniversary at Shiloh, New Jersey, on the 9th, 10th, 11th, and 13th days of September, 1846. During the session a resolution was passed expressing the settled conviction of the Conference, "that all legislation designed to enforce the religious observance of any day for a Sabbath, thereby determining by civil law that such day shall not be used -for labor or judicial purposes, is unconstitutional, and hostile to religious freedom." A Committee was appointed to prepare an Address to the people of the United States in accordance with the opinion thus expressed. The following is the Address reported by the Committee, approved by the Conference, and referred to the American Sabbath Tract Society for publication.

THE APPEAL.

FELLOW-CITIZENS:— We fully agree with you in the popular sentiment of our nation, that liberty is sweet—to men of noble minds, much more precious than estates, or treasures of silver and gold—dearer than our reputation and honor among the despots of the world. Was it not this sentiment, firmly-rooted in the minds of the Fathers of our National Independence, which led them to stake their "lives, their fortunes, and their sacred honor," rather than be the serfs of a British King anti his aristocratic Lords? Applauding their spirit, we know that you will agree with us in the sentiment, that the preservation of that liberty which they achieved and perpetuated in our ever-glorious Constitution, is the highest civil duty which we owe to ourselves, to our posterity, and to our nation. All but coercionists will agree with us, that the preservation of our religious liberty is a sacred duty, which we owe alike to the cause of truth and our political happiness.

Give us your candid attention, then, while we present a brief statement of the wrongs we are suffering in these United States, despite the principles of the National Declaration of Independence, and the guarantees of our National Constitution.

Believing in the integrity of the provisional Government which made the Declaration of Independence, our fathers and predecessors in faith, fought side by side with yours for the liberty which that instrument declares to be the inalienable right of all men. They were equally zealous parties to the adoption of the Constitution of the United States—that Constitution which says there shall be "no law respecting an establishment of religion, or prohibiting the free exercise thereof;" "and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." Although our brethren at Ephrata, in Pennsylvania, regarded warfare and the shedding of blood as inconsistent with the Christian profession, yet they were no less ardent admirers of those national instruments by which American liberties were asserted and established. Of this they gave ample proof, in the unwavering support which they ever voluntarily rendered to the National Government and its troops, by all the peaceable means at their command. History records an act of patriotism and piety, which reflects everlasting honor on their names. They voluntarily and compassionately received, at their establishment, between four and five hundred wounded Americans who had fallen in the battle of Brandywine, fed them from their own stores, and nursed them with their own hands, for which they never received nor asked a recompense of the American Government or people. It was enough for them, that they were their fellow men. But it stirred their hearts the deeper, that they knew they were bleeding in the cause of sacred liberty.

We are the descendants and successors in faith of these parties. We hold the same sentiments, and cherish the same principles, which they did at that time. Is it not surprising, then, that within severity years after the signing of that Declaration, and in little more than half a century after the adoption of the Constitution, the lineal descendants of these parties, and their successors in faith and principles, should have their liberties so abridged by state authorities, as to give occasion for an appeal to the citizens of the whole nation, from whom the sovereign power emanates, for a redress of their wrongs? But so it is. Religious zealots, in our State Legislatures and on the Judicial Bench, have violated the Constitution of the nation, established an article of their religious creed, and made it penal for others of different sentiments to follow out their own honest convictions of duty to God.

The consequence is, that eight of our brethren are at this moment under judicial sentence for their religious sentiments, and condemned to pay four dollars each, with costs of prosecution, or suffer imprisonment in the common jail. It is not pretended that they

have injured the persons, or wronged the estates or interests of any of their fellow-citizens. Neither is it pretended that they are lewd or intemperate persons, or profaners of churches. The only pretense is, that they have injured the religious feelings of some others by peaceably working upon their own farms on the first day of the week, in obedience to the dictates of their own consciences and the law of God. And this is the second time, within the space of one year, that the persecution of these otherwise unoffending men, has been approved by the courts of Pennsylvania. In four other States of the Union, in defiance of the National Constitution, our fellow-citizens have suffered prosecutions, fines, and imprisonment, within the past year, upon similar charges. Beside this, in the States where toleration is provided for labor on our own farms and in our own workshops on the first day of the week, all contracts, legal and commercial transactions, if done even among ourselves, are declared null and void by the State Statutes, So that, even in these States, we are deprived of our constitutional and inalienable right to use one-sixth part of our time for commercial, legal, and judicial transactions; and then are tied up to our own premises, as though we were as dangerous to the religious interests of our fellow-citizens, as rabid animals are to their persons.

Applications were made to three State Legislatures during the winter of 1845-1846, for relief from these odious statutes. But those applications were all repulsed with supercilious denials. Forbearance is no longer a virtue. A succession of abuses and usurpations of our rights, has compelled us to take measures to resist, with all the legal means in our power, and with all that we can honorably acquire, whatever laws abridge the rights or coerce the consciences of ourselves or our fellow-citizens on religious or sectarian considerations. Appealing to Jehovah and his holy law for the rectitude of our principles and the righteousness of our cause, we have implored, and shall continue to implore, the interposition of his Providence to succeed our efforts, Without wishing to disturb the peace of society, or wantonly to overturn the existing order of things, but actuated solely by a sense of duty to maintain the integrity of God's law, and preserve unimpaired our religious privileges, we appeal to you, fellow-citizens, in defense of the justice of our demands, by a fair representation of our Constitutional Rights. The sixth article of the Constitution of the United States, section 2d, says, "This Constitution, and the laws of the United States which shall be made in pursuance thereof, shall be tan 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."

Section 3d says, " The members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to office or public trust' under the United States."

In the amendments to the Constitution, article 1st, it is written, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

In view of these sections of the fundamental law of the nation, what can be more palpably unconstitutional than those State statutes which are so framed as to declare and establish the first day of the week as "the Christian Sabbath," or holy day. The State statutes which subject any citizen to fine or imprisonment for labor, or any legal transaction, on the first day of the week, as far as their influence extends, make void God's everlasting law, and subject the conscientious servant thereof to punishment for a strict conformity to it. The State statutes violate the Constitution of the United States in two respects. 1st. They violate that part of the Constitution which forbids the enactment of any "law respecting an establishment of religion;" because by them the religious observance of the first day is made a State establishment of religion as really and arbitrarily as the law of Constantine made it a part of the religion of the Roman Empire. 2d. They violate that part of the Constitution which forbids the making of any law "prohibiting the free exercise" of religion; because, by forbidding labor on the first day of the week, they prohibit a strict conformity to the law of God which says, "Six days shalt thou labor and do all thy work, but the seventh day is the Sabbath of the Lord thy God." With this view of the subject, we submit it to the common-sense of candid men to say, if every judicial officer who convicts or passes sentence upon his fellow-citizens for disobeying these arbitrary statutes on a charge of Sabbath-breaking, is not a perjured man. He swears or affirms to "support the Constitution of the United States, anything in the Constitution or laws of any State to the contrary notwithstanding;" yet he administers a law which establishes a sectarian article of religion, and punishes conscientious men for a free exercise of their own religious opinions, and for doing what they esteem to be their duty to God.

Heretofore we have asked only for exemptions from these odious statutes for all such as observe the seventh day of the week as the Sabbath, and we have generally been permitted to pass peaceably along. But of late our growing numbers, and our increasing influence in the nation, together with the use of the public press in defense of our sentiments, have seemingly made us too odious in the eyes of some of our fellow-citizens to be suffered peaceably to enjoy our rights. Powerful efforts are being made to inflame the public mind against us, to influence the magistracy to enforce the Sunday laws now existing, and if possible to procure the enactment of others more stringent and restrictive. These things have thrown us unavoidably upon our constitutional rights. Experience teaches us that our peace and liberty are continually jeopardized by the existence of statutes which van be so construed as to coerce us, contrary to our consciences, to do reverence to the first day of the week as a holy day. We therefore demand the entire repeal of all laws for coercing the observance of the first day, as being contrary to the spirit and the letter of the Constitution of the United States.

The view which we take of this subject is not from a partial. construction of the Constitution. That instrument has been so construed by impartial and competent authority. The following extract from a letter written by GEORGE WASHINGTON, while President of

the United States, and who was President of the Convention for framing the Constitution, to a committee of a Baptist Society in Virginia, in answer to an application to him for his views of the meaning and efficiency of that instrument to protect the rights of conscience, decides the intent of the framers of the Constitution, and consequently the intent of the Constitution itself. The letter is dated August 4, 1789, and reads as follows "If I had the least idea of any difficulty resulting from the Constitution adopted by the Convention of which I had the honor to be President when it was formed, so as to endanger the rights of any religious denomination, then I never should have attached my name to that instrument. If I had any idea that the General Government was so administered that liberty of conscience was endangered, I pray you be assured that no man would be more willing than myself to revise and alter that part of it, so as to avoid all religious persecution. You can, without doubt, remember that I have often expressed my opinion, that every man who conducts himself as a good citizen is accountable alone to God for his religious faith, and should be protected in worshipping God according to the dictates of his conscience.

[Signed,] - GEORGE WASHINGTON." * * This letter was translated into the German at Ephrata, Penn., and the present copy of the letter is probably a re-translation of it into English from the German.

The Congressional Committee on Post Offices and Post Roads, to whom were referred certain memorials for prohibiting the transportation of mails and the opening of post offices on Sunday, in the 43d session of Congress, A. D. 1830, reported unfavorably to the prayer of the memorialists. Their report was adopted, and printed by order of the Senate of the United States, and the Committee was discharged from the farther consideration of the subject. That Committee take the same view of the intent of the Constitution as did General Washington. They say:—

"We look in vain to that instrument for authority to say whether first day, or seventh day, or whether any day, has been made holy by the Almighty." "The Constitution regards the conscience of the Jew as sacred as that of the Christian; and gives no more authority to adopt a measure affecting the conscience of a solitary individual, than that of a whole community. That representative who would violate this principle, would lose his delegated character, and forfeit the confidence of his constituents. If Congress should declare the first day of the week holy, it would not convince the Jew nor the Sabbatarian. It would die satisfy both, and consequently convert neither." "If a solemn act of legislation shall in one point define the law of God, or point out to the citizen one religious duty, it may with equal propriety define every part of revelation, and enforce every religious obligation, even to the forms and ceremonies of worship, the endowments of the church, and the support of the clergy. . . . "The framers of the Constitution recognized the eternal principle, that man's relation to his God is above human legislation, and his rights of conscience inalienable. Reasoning was not necessary to establish this truth; we are conscious of it in our own bosoms. It is this consciousness which, in defiance of human laws, has sustained so many martyrs in tortures and flames. They felt that their duty to God was superior to human enactments, and that man could exercise no authority over their consciences. It is an inborn principle, which nothing can eradicate."

"It is also a fact, that counter memorials, equally respectable, oppose the interference of Congress, on the ground that it would be legislating upon a religious subject, and therefore unconstitutional."

Impartial Judiciaries have taken the same view of these provisions of the Constitution, and have declared the laws enforcing the observance of the first day of the week unconstitutional, as may be seen in Judge Hertell's book, "The Rights of the People Reclaimed;" also in "An Essay on Constitutional Reform, by Hiram P. Hastings, Counselor at Law."

On the 2d of October, 1799, at New Mills, Burlington County, New Jersey, a Seventh-day Baptist being indicted before a Justice of the Peace for working on Sunday, and fined, he appealed. At the trial in Court, the foregoing letter from General Washington was produced by the Judge, and read in his charge to the Jury. The result was acquittal by the Jury.

In the year 1845, the Court of Hamilton County, Ohio, made a similar decision in a like case, and on similar considerations.

A Committee of the Common Hall of the City of Richmond, Virginia, to whom was referred the case of certain persecuted Jews, have made a like decision on the municipal laws of that City, which have been construed to enforce keeping the first day.

The Post Office Laws are framed in accordance with these provisions of the Constitution. The Act of March 3d, 1825, section 1st, authorizes the Postmaster to "provide for the carriage of the mail on all post roads that are or may be established by law, and as often as he, having regard to the productiveness thereof, and other circumstances, shall think proper." Section 17th provides, "that every Postmaster shall keep an office, in which one or more persons shall attend on every day on which a mail shall arrive by land or water, as well as on other days, at such hours as the Postmaster General shall direct, for the purpose of performing the duties thereof; and it shall be the duty of the Postmaster, at all reasonable hours, on every day of the week, to deliver on demand any letter, paper, or packet, to the person entitled to, or authorized to receive the same. The laws against labor on the first day, in each State where they exist, are obliged to except the mail-carriers and the postmasters. But we ask our fellow-citizens to consider by what show of justice, any local tribunal can punish a private citizen for doing that on his own account, which the servants and officers of the United States are doing at the same time, for the use of the people, and by a law of the same Government? Suppose a carriage conveying the United States Mail, should enter the City of Philadelphia on Sunday; and another carriage, containing goods or wares for the next day's market,

should enter at the same time and by the same route; with what show of justice shall the driver of the market carriage be put under arrest and fined, and the driver of the mail carriage go free? Or suppose there should be a postmaster assorting his letters on the first day, and a fellow-citizen selling pens, ink, paper, and wafers, to write the same letters, in another part of the same building; with what show of justice shall the tradesman be fined and the postmaster go free? The officers of the United States Government have no national rights above the humblest citizen. The transgression of law by them is as really a crime as in the case of any other citizen. Our Government knows nothing of those kingly rights which set emperors, monarchs, and their servants, above law. If, therefore, there is no transgression of constitutional law in carrying the United States Mail on the first day, then there is none in a private citizen following his otherwise lawful and peaceable occupation on the same day.

In some quarters, during the last year, our motives and designs were grossly misrepresented by prejudiced persons, in our legislatures and elsewhere. We were represented as "wishing the legislature to change the Sabbath from the first to the seventh day of the week;" and were accused of "covertly wishing to compel our fellow-citizens to keep our Sabbath day." No insinuation could be more grossly deceptive—no accusation more flagitiously unjust to us as a people. We declare un-equivocally, that we do not desire any such thing. We believe that keeping the Sabbath day is purely a religious duty. All we ask is, that our State Legislatures leave the matter where the Constitution of the United States and the laws of the General Government have placed it. They have no more right to determine this religious duty, than they have to determine the rites of Christian worship. We believe our fellow-citizens ought to be protected in the peaceable observation of their day of religious rest, as in the observance of every other religious institution, except where such observance is made a sanctuary for crime. We ask the same protection for ourselves on the seventh day of the week, and nothing more.

If the Constitution may be infringed upon to put down the observers of the seventh day, no one can say how long it will be before other minor denominations may be put down too. Already attempts are making to exact a confession of faith, unknown to the Constitution, as a qualification for a legal oath. If the religious sanctification of the first day of the week may be enforced by statutory requirements, so may the forms and hours of worship. He who says, that there is no danger of the latter being enforced, while statutory regulations violate two of the most sacred provisions of the National Constitution, knows but little of the history of mankind, or pays but little attention to the tendencies of human nature. A single standing violation of the Constitution is an example and an authority for others to follow. One religious observance established by law, is the admission of the main principle of national hierarchy, and will come in time to be referred to as authority for similar infractions of the Constitution. The laws for the observance of the first day are in fact a union of Church and State. It is not pretended that they are designed to subserve directly a political or civil object. It is altogether a religious object which they subserve. It becomes every friend of equal rights, as he loves the Constitution of his country, to oppose these infractions of its just principles, until equal liberty is secured to all citizens by statutory provisions, as by the fundamental laws of the nation.

Our opponents often remind us of their pretense, that we are under no more restrictions than other citizens; we may do as we please about keeping the seventh day. To this we reply, that the tyrants of the Roman people deprived the Republic of its liberties by professing themselves the guardians of their INTERESTS. "By declaring themselves the protectors of the people, Marius and Caesar had subverted the Constitution of their country." Augustus established a despotism by artfully affecting to be governed himself by the same laws which he procured to be enacted to take away the rights of the people. These are the same principles upon which religious coercionists conjure us to be quiet under the loss of our constitutional rights. The progress of these things towards despotism is as dangerous in the American Republic as in that of Rome, and may be as rapid. Their success would be as deadly to human happiness, and all the best interests of mankind, in the nineteenth century, as they were in the decline and fall of the Roman Empire. Human nature now affords no better guaranty for the safety of our national rights, than it did to the Romans at the summit of their greatness. Liberty can be preserved only at the expense of perpetual vigilance, and by the popular support of individual rights. If ever the doctrine which has been urged before one of our legislative bodies, "The greatest good of the greatest number," should become a popular political axiom, to justify the course of the many in taking away the rights of the few, the halls of legislation will become scaffolds for the execution of liberty, and that odious principle will be the shroud in which it will be buried. Despots may establish a round of religious observances, and exact an unwilling and insincere conformity to their arbitrary prescriptions; but they can never convince the understanding nor win the heart of one who knows the voice of truth. They can only make him a slave, while the effects of their arbitrary prescriptions on the popular mind will be to wither up all interest in the religious tendencies of an observance sustained only by the enactments of heartless politicians. All that makes religion vital and effective for its own holy objects, expires when the sword is drawn to enforce it. Liberty, humanity, religion, and our National Constitution, then, require that the laws enforcing the observance of the first day of the week should be repealed.

As American Citizens, as independent Freemen, and as responsible Stewards of the glorious heritage bequeathed to us by the Fathers A the Revolution, we shall, with the aid of the Majesty of Heaven, maintain unimpaired the high privileges secured to us by the Charter of our Liberties.

We ask for no exclusive immunities. We dis claim all right of human government to exercise over, or fetter in the least, the religious rights of any being. Might is not right, neither does the accident of being a majority give any, claim to trample on the rights of the minority. It is a usurpation of authority to oppress the minority, or set at naught their indefeasible rights. In civil affairs we respect the authorities that be, but in religious service, resent being forced to keep the commandments of men. We recognize the laws of the land

in all secular matters, and the laws of God, anti of God alone, in religious faith and practice. These are the inalienable rights of all the members of a Republic. These are rights reserved by the people to themselves, in the formation of our Government, which no power can legitimately wrest from us, and with the help of God none shall.

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