

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Bill/Resolution No.: HB 1097

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1097 repeals Sunday closing laws.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 of HB 1097 repeals the Sunday closing laws, enabling establishments to open prior to noon on Sundays if they choose to do so.

If enacted, this bill may result in additional state and local sales tax collections and -- if profitability is enhanced -- possible additional state income tax collections as well. The amount of the potential increase in revenues cannot be determined as it is unknown which establishments will choose to open on Sunday mornings and if additional sales will be generated.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

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Date Prepared: 01/08/2019

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1097

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB1097
1/9/2019
Job #30596

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang by ReMae Kuehn

Explanation or reason for introduction of bill/resolution:

Sunday closing laws & retail agreements.

Minutes:

Attachments 1-9

Rep. Roers Jones, Co-Sponsor: Introduces HB 1097. (Attachment 1--Current Sunday Closing Law)

(6:30)

Rep. C. Johnson: I was looking at the exemptions where they can't require a business to be open on Sunday as part of a lease or franchise agreement. Could it be extended to employees where you could not require an employee to work?

Rep. Roers Jones: There are already sections in the code that protect employer-employee relationships. There will be some cases where they will need them to work on Sunday but that can be worked out between the employer and employee. With the large number of job openings, it is in the best interest of the employer to accommodate the employee's needs.

Rep. Ruby: Are you saying that right now there is nothing preventing the employer from requesting the employee to work? It's just when the store can open?

Rep. Roers Jones: That's true. There are many retail stores that are not open on Sunday mornings but there are still people working in those businesses to get ready for when they do open.

Chairman Keiser: Did you have any discussions with the Auto Dealers' Association? They have a concern.

Rep. Roers Jones: Yes, I did. They were fine with the repeal of Chapter 12. It would allow them to have test drives and service. The portion which allows them to sell is in a different chapter. Their concern is about the ability to sell when banks and insurance companies are not open. That chapter is not included in this bill.

Rep. Richter: Do you need a guarantee for a worker that doesn't want to work on a day they considered the Sabbath?

Rep. Roers Jones: There is another bill related to that.

Rep. Kasper: Did you consider the 1st Amendment? If an employee has a deep conviction on their religious beliefs, the constitution protects them. This is giving the employer the decision and could violate the constitution.

Rep. Roers Jones: I read that section of the Constitution differently. It says the government shall not establish a religion. It doesn't say that the government shall protect a religion. It is your right to practice your religion. There is nothing in this bill that prohibits that. Even though we want to protect people's ability to have time for religion, it's not the responsibility of the ND state government to say when it is the time to practice religion. The current law is protecting the time for some workers and not others.

Rep Kasper: I read that first sentence differently. There is one big word in the first amendment and that is the word "or." "Or prohibiting the free exercise thereof." That part is not being addressed.

Rep. Roes Jones: I understand your concern. I don't feel that will be a problem.

(19:40)

Sen. Holmberg, Co-Sponsor: In 1992 the legislature repealed a major portion of the blue laws which allowed stores to be open starting at noon on Sunday. The bill was referred to the voters and 65% voted "yes."

We are holding onto deeply held beliefs on both sides of the issue. (Attachment #2--pictures) The top picture shows that I can buy sheets and pillow cases at Hugo's Family Market on Sunday morning but not at Bed Bath and Beyond because they are not allowed to be open. I can also go to Valley Dairy on Sunday morning and buy a dress.

If they chain off the general merchandise, the customers get mad at the store not the state legislators.

(24:20)

Rep. Kasper: I couldn't agree more with the statement you made. This bill is presuming that the people of North Dakota want this to pass. Shouldn't we let the people vote?

Sen Holmberg: If it was an initiated measure, it would have to come from the people and not the legislature. I was elected to represent the people.

Rep. P. Anderson: I've seen the farm stores where the parking lot is full at 11:30 a.m. Farmers are waiting for the store to open on Sundays.

Rep. M. Nelson: Seems the law is getting the blame. Shouldn't we just drop the law?

Sen. Holmberg: I just don't know. Is there a jury that would convict anybody of selling shoes on Sunday morning?

(28:20)

Brandon Medenwald, Software Company Owner, Fargo: (Attachment #3)

There is already a law 34-06-05.1. It is known as the "one day of rest in seven law." It currently provides that employers must offer one day per week for religious practice to their employees. This law is fairly unenforceable.

(36:10)

Arik Spencer, President and CEO of the Greater North Dakota Chamber:
(Attachment #4)

(37:20)

Rep. P. Anderson: Do you believe our sales tax revenue may increase because stores are open on Sunday morning?

Arik Spencer: I do believe it is possible in cities along the border. Also if purchases are made in North Dakota stores rather than online.

Mike Rud, President of North Dakota Retail Association: We stand in full support.

Chairman Keiser: Has there been discussion within your membership of factual information, that not being open on Sunday has benefited the internet shopping?

Mike Rud: We don't have any factual information but you can see it nationally.

(41:36)

Mike Fedorchak, State Director AFP-ND: (Attachment #5) We are the last state with a blue law.

Opposition:

(43:11)

Christopher Dodson, Executive Director of ND Catholic Conference: (Attachment #6)

(47:08)

Chairman Keiser: I asked local priests what is the percentage of people attending church regularly. Do you know the number?

Christopher Dodson: No. This law doesn't have anything to do with getting people to attend church.

Rep Ruby: I've read around 27%. The government is giving a day of rest. If that's the case, why isn't it on a Saturday? The law says that there is a day of rest.

Christopher Dodson: It could be any day.

(50:15)

Pastor Douglas VanderMeulen, Community Baptist Church of Fargo: (Attachment #7)

(1:01:40)

Rep. Adams: I don't go to church every Sunday. Sometimes I go on Wednesday or Bible study on a different day. Should we be doing business on the Lord's day? Every day is the Lord's day. How are we to decide what is your Lord's day?

Pastor VanderMeulen: When the blue laws were originally passed, North Dakota was a much more homogenous people. Over the last decades we've become more pluralistic. This bill doesn't accommodate that in our society. Your job is to protect the individual, even if it's a small minority.

(1:05:50)

Jeff Hoverson, House Representative and Lutheran Pastor: (Attachment #8)

Notre Dame and MIT did a study in 2008. They found that every state that does repeal has declining church attendance.

(1:17:00)

Berdette Howe, Constituent: The first amendment does provide for the free expression of religion. We need to protect the Sabbath. The most frequent day in ND for worship services is Sunday. It is not always so easy for employees to find another job that agrees with their religious beliefs. We are forgetting about the employee and concentrating on the employers. One business throws away any applications that state they are not able to work on Sunday mornings. Employees lost their voice. I urge you to protect this segment.

(1:21:30)

Blaine Mehlhoff, Constituent, Bismarck: (Attachment #9)

(1:24:10)

John Mehlhoff, Constituent: We are asked to do away with the blue law based on fairness. This is a labor issue. We need to consider that we give benefits to the employees in the state.

Neutral: none

Chairman Keiser: Closed the hearing. What are the wishes of the committee?

Rep Kasper: I would like to hold the bill.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1097
1/14/2019
Job # 30736

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang by ReMae Kuehn

Explanation or reason for introduction of bill/resolution:

Sunday closing laws & retail agreements.

Minutes:

Rep. Kasper: Moved Do Pass

Rep. Bosch: Seconded the motion.

A Roll Call vote was taken: Yes 11, No 2, Absent 1.

Do Pass carries.

Representative Ruby will carry the bill.

Date: Jan 14, 2019

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1097

House _____ Industry, Business and Labor _____ Committee _____

Subcommittee

Amendment LC# or
Description: _____

Recommendation

- Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions

- Reconsider

Motion Made by Rep Kasper Seconded By Rep Bosch

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	X	
Vice Chairman Lefor	Ab		Rep Richter	X	
Rep Bosch	X		Rep Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	X		Rep Adams	X	
Rep Laning		X	Rep P Anderson	X	
Rep Louser	X		Rep M Nelson		X

Total (Yes) 11 No 2

Absent 1

Floor Assignment Rep Ruby

REPORT OF STANDING COMMITTEE

HB 1097: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends DO PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING).
HB 1097 was placed on the Eleventh order on the calendar.

2019 SENATE POLITICAL SUBDIVISIONS

HB 1097

2019 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB1097
3/7/2019
Job # 33362

- Subcommittee
 Conference Committee

Committee Clerk: Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to Sunday closing laws.

Minutes:

Written attachment #1: Rep. Shannon M. Roers-Jones
Written attachment#2: Sen. Ray Holmberg
Written attachment #3: Brandon Medenwald
Written attachment #4: Arik Spencer
Written attachment # 5: Rep. Jeff Hoverson
Written attachment #6: Rep. Kathy Skroach
Written attachment #7: Blaine Mehlhoff
Written attachment #8: Berdette Howe
Written attachment #9: Christopher Dodson

Chairman Burckhard opened the hearing for HB1097. Senator Burckhard, Senator Anderson, Senator Diane Larson, Senator Dotzenrod, Senator Kannianen were present. Senator J. Lee was absent.

Representative Shannon M. Roers-Jones, District 46, Introduced HB1097. Because I know that the committee is probably very familiar with this bill I am going to try and be brief and allow time for the people after me to testify. HB1097 just seeks to repeal chapter 12.1-30 which I have passed out so you have a copy of it. It is the law that is currently been on the books for many, many years that limits certain items from being sold and certain businesses from being open on Sunday between midnight and noon. What we're looking at doing here is repealing the entire section that you have in front of you and then just indicate having some language at the bottom of the page that says 'for retailers that have entered into a lease agreement' before January 1, 2019. It is saying that because they didn't contemplate the potential repeal when they entered into their lease terms that they cannot be forced to be opened before noon on Sundays. That protects people who are residents I would say of a shopping mall if the mall says according to the terms of your lease, now you will be open. It is saying if you entered into that lease beforehand that you cannot be forced to be open. Obviously if they enter into a new lease after the first of 2019, they will have knowledge that this is a potential repeal and that it is out there, and they would have to negotiate the terms of their lease going forward. What we're looking at doing here. We've all seen this in sessions past. This bill has evolved and changed so many times over the years that what we have is very narrow sliver of people that we are protecting from being open on Sunday mornings. This really only applies to retail workers but really we're not protecting

anyone from working on a Sunday morning, we're protecting people from shopping on a shopping on a Sunday morning. We know from looking at people who work in retail environments across the state that the stores-the people are in the stores, their stocking shelves, there cleaning and doing different things. The only thing that is not happening before noon on Sunday is merchandizing. I think that the more that we look at this. It's not the role of the state of North Dakota to say to business owners that you cannot, that you don't have the right to open your business. I think that decision should be left to each business owner. It's not the right of the state of North Dakota to say to each employee in this very limited pool of employees that you don't have the right to work before noon on Sundays if that is something that you would like to do. I know when I was a student in undergraduate and graduate school I lived in Minnesota where I had the opportunity to work before noon on Sunday and I appreciated that opportunity because it fit very well in to my schedule. We are saying to retail workers here in North Dakota that while there is some opportunity to work in the stores if you're going to do the inventory or those sorts of things, if you're a retail sales person like I was who worked on commission then you don't have that opportunity to earn money before noon on Sundays. If you look at the things that we are restricting our access to, it's very haphazard or arbitrary the things that you can sell versus the things you can't sell. Because of that you can also say that there are some businesses that are being treated preferentially to other businesses which are required to be closed. (Ex. cited 5:06) Those businesses are being treated preferentially because we're not allowing a Walmart or Family Dollar or one of those stores to be open. I think in summation the items that are listed on here and the people that we're protecting are very arbitrary (**Written attachment #1**). It is up to each individual person to decide when they're going to have their family time, there individual time to go to church if that is important to them. But I think the idea that we are somehow protecting people from their family time globally across the state I think is a misnomer. I think what we have right now is a very limited protected against retail stores selling goods.

Chairman Burckhard: Do you remember when the grocery stores tried to cover up those kinds of items on a Sunday?

Representative Shannon Roers-Jones: I do. Our grocery stores had a rope across the aisle that you couldn't go into. I understand some grocery stores used to cover them with plastic, but now no-one is trying to cover any of those items. They are just selling them. I know more and more of those items have been exempted.

Senator Holmberg: I am a co-sponsor of HB1097. My message is actually very simple. In its time Sunday Blue Laws probably made sense and probably closely mirrored public opinion. But that time has passed. We have had over the years a number of measures that have chipped away from the Sunday Blue Laws whether it is whether or not you can have a glass of wine with dinner on Sunday, and then last session I think the session before, it was eleven O'clock but, the last time the voters weighed in on Sunday opening was in 1992. The Legislature after a lot of attempts passed the Sunday opening law which allowed stores to be open at noon on Sunday. It was controversial and all that, it was referred to the voters. 68% of North Dakotan voters voted yes on that measure. I always use as my example, how many of us win by that type of margin? It clearly was what the voters wanted. The picture (**Written attachment #2**) that I just passed out is a visual of what Rep. Shannon Roers-Jones talked about, the inequality. (Ex. cited 11:51) My message is very simple. At one time

this was I think something the voters and the people of North Dakota really wanted, but I think society has changed a great deal. I think they are of a belief that let the business owners decide whether or not they want to be open. That is what I have to say.

Mr. Brandon Medenwald: (13:10-20:19) Co-founder of Simple Made Apps. He asked for a do-pass on HB 1097. (**Written attachment #3**)

Chairman Burckhard: Has it every been suggested that you have a radio voice?

Mr. Brandon Medenwald: My high school speech teacher put me in radio/broadcasting. I took 6th in state my senior year. All my life, it is a burden.

Mr. Arik Spencer: (21:03-23:31) President and CEO of the Greater North Dakota Chamber. **Written attachment #4.** Here for strong support of 1097.

Senator D. Larson: One of my concerns from last session with this bill was those people in the mall who would be required to be open on a Sunday morning even though they believed it wouldn't make them another dollar of profit, but just increase their overhead and require them to be there because of their mall lease. Now I see that that was addressed in this bill, but do you know how frequently mall renters have to re-new their lease?

Mr. Arik Spencer: I don't know that off hand. I would defer to Mr. Rudd with the Retailers here in the room who would probably be able to handle that or answer more adequately than I.

Mr. Mike Rud: ND Retailers Association (24:45-26:10) This has always been a contentious issue amongst our membership. We had another contentious discussion and some lively debate about it and our Board came out in support of this issue. One of the issues we talked about as many as has referred to is the on-line sales competition that our industries are facing out there right now. That has become a huge issue for us. We are the one business association in North Dakota that's worked on market place fairness and the collection of on-line sales tax from out of state internet sellers very variously. That was something that we were really after and we finally got it done after 20 years and so we've had the discussion. So we accomplished this, and get it in place, we are creating a fair playing field and now we're going to hamstring a few of our members who want to be open on Sundays who are competing against these vary out of state internet sellers who are threatening our way of life on main street. After much discussion, in that area that is one turning point for our group the discussion that we have to maintain as fair a playing field as possible in terms of retail sales. This is one way we feel and the state will be able to do that and our markers will be able to do that. We urge a do pass recommendation on 1097.

Senator Dotzenrod: You mentioned that your board had met and had a good discussion and they decided that they would support this, right? So, I don't know how many individual members you have in your retail association but have you polled the members or inquiry or set out an email or check with not only the board members but the retail members to see how they feel how close is this?

Mr. Mike Rud: We did do that. Unfortunately, when you do these kind of polls you know what it is like and you probably get 25%-30% of the members back to respond and in many cases most of those are from the larger cities that respond to this. Yes, we did do that and there was favorable support across the board from the ND Retailers Association. After much discussion, we just think it's time we have to do something to be able to continue to compete with those online internet sellers.

Sarah Otte Coleman: (27:29-28:11) Director of the Tourism Division for the North Dakota Department of Commerce. One other item and I won't reiterate what other people have said, but one other thing to consider is that non-resident visiting ND, spend the 2nd largest expenditures on retail. So when you think about travel patterns and when they are coming in whether it's in the winter for hockey tournament or whether a summer road trip if you're just allowing those hours you're also decreasing the dollars that they can spend. Our visitors in our most recent survey spent the most on food and beverage, 29.8%, and that's of \$3 Billion dollars. On retail they spent \$21. 6% so just another consideration for you.

Opposition Testimony

Representative Jeff Hoverson: District 3, (29:24-39:11) The Sunday Blue Laws if you listen closely are about the here and now, and if this was a shallow issue, shallow reasons would suffice. But I would really like you to strongly encourage the macro-picture that is happening here. **Written attachment #5.**

Chairman Burckhard: What do you think the trends are in church attendance now compared to say 25 years ago?

Representative Jeff Hoverson: Our society is changing. The design of God is not. So they are right when they say that society is changing, but do we really want to change the direction that other states are going? I don't know that things are working out so well in NY, California, who were the first to go in this. I know I don't want to follow New York, that's for sure.

Chairman Burckhard: When was the last time the Supreme Court weighed in on the Blue Law?

Representative Jeff Hoverson: I don't know the last time, but I know the big year was 1961 and I would have to take that out and give it to you. I think there is four court cases. They used terms like tranquility, societal stability, families. They believed in it. It wasn't an argument about well I want to shop on Sunday.

Senator Jim Dotzenrod: You're making an argument here against this bill based sort of a moral argument.

Rep. Jeff Hoverson: In part, but the state has an interest too. Like I said church and the state has a parallel interest, like they have always have for 300 years?

Senator Jim Dotzenrod: So I see at the bottom, the last two lines, there of your testimony, something about money and drug dealers. I mean are you making an assertion that if we pass this bill, we're going to have more drug dealers?

Representative Jeff Hoverson: No, thanks for asking as that is a good question. What I am saying is that we have in the last number of years and still do and I still do, let's get business. I want to reduce income tax and property tax for the state to bring in business in ND. But along with bringing business and money who's looking after the underpinnings of our state, the moral underpinnings? The Sunday laws are one of the few things that do that because when people make choices to move here, they're going to say, what they've those crazy Sunday Blue Laws, I don't want to move there? But the person that says I like that are probably more likely to be a wholesome family or couple or individual than they are to be a drug dealer or human trafficker. I am not saying that bringing business didn't automatically bring that, but since the oil boom, we've heard more about drug dealing and human trafficking than we ever did, when we were growing up. I would say that the church has a big part to play in that. That is what makes Sunday morning unique from Thursday or Saturday.

Representative Kathy Skroch: District 26. (42:31-46:23) **Written attachment #6.**

Chairman Burckhard: Should the Blue Laws mirror the public opinion? I know that things have changed, we are different now than what we were in 1960 and now we have a global economy besides and we've got a society that nearly everybody is working on Sunday. Nurses, hospitals, it's almost like the non-working ones are the exception. Do you think this will affect that?

Representative Kathy Skroch: I think that there are obviously those entities that must remain open on Sundays. After working in the medical field for 23 years, I understand what it is like to have to work every other weekend, and every other holiday. When people call in sick you work on that holiday too and that weekend also. But you obviously know that that you cannot suddenly say well we're not going to staff a nursing home on a Sunday. Those are common sense things. Congress itself has established mandatory days off. They have them on Monday as that is their compliment to the weekend. I think the state is always invested in what's best for the people. This is one of those areas that we could say is similar to laws that prohibit or set a speed limit. We do that for the good of the people. Laws that require you buckle your seatbelt and put children in safety seats, we do that for the good of the people. Not necessarily because they like it. For the good of the people.

Blaine Mehlhoff (49:13-53:21) **Written testimony #7.** I am not here to represent any businesses, I am to represent myself and maybe just some individual citizens of ND. I urge to vote a do not pass recommendation on HB1097.

Berdette Howe: (54:19-1:02:19) I urge that you move to defeat HB1097. **Written attachment #8.**

Chairman Burckhard: There are many faiths represented these days, and Sunday is not always the Sabbath day for all those faiths. How do we legislate around that? What would you suggest that we do, and I also would say I think many employers if you're that strong in your faith and you don't want to work on Sunday mornings, I would hope that they would accommodate that. But that is not is going to happen universally either, let's talk about the Sabbath day, what do you think?

Berdette Howe: I am aware that there are many different faiths and I am aware that most of the major religions in the world do respect the seventh day as the Sabbath, including Islam, Judaism, Jewish faith, Buddhism, Cherokee, Christianity, many religions respect that. I know that they have not all concluded which is the right day for the seventh day. I know that the Jewish faith would say that Saturday is the day of rest and the day not to work. I would also submit as you heard the testimony earlier here, that in our nation Sunday has been a recognized relative universal day of rest. I would think that if we are truly honoring religious freedom, and those are of the Jewish faith, that they also would be allowed to have their religious practices respected by not requiring them to work on Sundays. Coincidentally, I grew up on a farm in Hettinger ND and my Dad hired man kind of used it to his advantage, he said well, I am Jewish so I can't work on Saturday's and I can't work on Sundays either, to respect other people. I recognize the difference and I would say that the majority of people respect Sunday in our state versus other days. If we can meet the needs of the majority, and still respect the others that would be best.

Ms. Julian Holberson from Minot, (1:04:43-1:06:59) Just listening to some of the testimony brought up some thoughts of my own. First of all, I think the testimony shared by the senators I believe showed that you can shop on Sundays. There are things you can buy so for the person who is desperate to get something you can pretty much find other things as he proved in his testimony. I appreciate North Dakota the way it is now with what we have. I guess my thought is this bill really hurting our state? Is the Sunday Blue Law hurting our state the way it is? I would say not, as far as making money. I did a quick search and found out that per capita ND is 9th in spending at Walmart. So without being open on Sunday morning we made the top 10 list. I don't think businesses are going to do better by being open those extra two hours. As far as shopping on line, business would probably want to be open 24/7 in order to compete with online businesses anyway. I don't believe Sunday morning is going to probably help them out a whole lot with that. The other thing is I think we are going to end up with many more people working on Sunday mornings so therefore they won't be able to be in church, they will be working! However that affects their moral upbringing if they are not able to be educated in their church. I would ask you to vote no on this bill and keep ND the way it is because it's great the way it is and I don't believe that the Sunday Blue laws are hurting us.

Chairman Burckhard: So the thought that I have is one of the dilemma's we have we have neighbors. Our neighbor to the East, who has a football called the Vikings and a baseball team called the Twins, and so we've got our eastern cities in ND that compete with western Minnesota folks and it just drive across the river. I think that is one of the things that comes into play here. So, people just drive the river and do all the retail stuff when they want and whatever they want. What do you think about that? What should we do about that?

Ms. Julian Holberson: The Walmart kind of shows that we shop #9 per capita at Walmart the most. So, I don't think that it's probably going to make that great of an increase for people. I know Walmart comes here when it comes to being a part of opening the pharmacy. They bring people in and they are going to get their business, they pay for buses to haul people in. So they're not here fighting for the extra hours on Sunday morning because they know in ND spending enough money there already. North Dakotans know how to shop in North Dakota even without being open on Sunday morning.

Senator D. Larson: I appreciate that you looked up the retail sales for Walmart. We've been hearing this morning and we have over the years of a pretty good list of the people that have to work on Sunday mornings anyway. I am wondering if you put together or thought of any kind of list of people that don't have to work on Sunday mornings? I just put together just sitting here thinking let's see right now, we have retailers in this list but we've got teachers, car dealers, legislators, many state employees, even drug treatment providers, courts. I don't know if you've thought about like the people that currently don't have to work on Sundays and so that this would be kind of taking one of that group out of the list and putting it on the other side of it. Have you looked at that at all?

Ms. Julian Holberson: No I haven't. A lot of those people may be taking a part time jobs on the weekends too. No I haven't studied it at all.

Senator Diane Larson: I received an email from Christopher Dodson, from the North Dakota Catholic Conference and he emailed his testimony to everybody in the committee since he had an emergency and was unable to be here. I thought he should be on record as being one of them that was opposed to this as well.

Chairman Burckhard: That will be noted.

Christopher Dobson was unable to attend the hearing but submitted **written attachment #9** for the committee.

Chairman Burckhard: Closed the hearing on HB1097. I don't think we should address this bill until we have our full committee membership here.

2019 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Red River Room, State Capitol

HB1097
3/14/2019
Job # 33740

- Subcommittee
 Conference Committee

Committee Clerk: Mary Jo Wocken

Explanation or reason for introduction of bill/resolution:

Relating to Sunday closing laws.

Minutes:

Chairman Burckhard asked the committee for discussion on HB1097.

Senator Diane Larson: I think we should just put it into a resolution to put it on the ballot again and we should be done with it for a while.

Chairman Burckhard: We should let the people vote.

Senator Diane Larson: I don't want an initiated measure; I want a resolution. Then we can word it the way we think is best for the area.

Chairman Burckhard: What do we want to do on this one folks? We've got a motion to make on 1097, Sunday closing laws.

Senator Diane Larson: Did we have a motion on it? **Chairman Burckhard:** No we don't.

**Senator Diane Larson: I move a do not pass motion
2nd by Senator Anderson**

Discussion:

Senator Diane Larson: Apparently the last time that the voters did weigh in on this was in 1992. They voted it down. I really felt like some of the strongest testimony was from Rep. Kathy Skroch. When she was talking about we have national holidays, we have all of these things, one of the Presidents even said that President George Washington said, that he is saying the federal postal employees have a mandatory day of rest on Sunday. So, I mean I guess I think we could spend a lot of time talking about all the people that really have to be working on Sunday, like police, fire, doctors, nurses and even restaurant owners. But then if we're going to just say, yea, well store owners should be open to then, I think that there is a lot of people that would say maybe the DOT should be open because I think a lot of people would find it more convenient to go on a Sunday and get their drivers' license because they

work the rest of the week. Or, we should have all state agencies open so that people can get their work done when it is more convenient for them instead of 8-5 Monday thru Friday. What we're talking about really is requiring some people to have to work on Sunday that currently don't.

Chairman Burckhard: Senator Lee, for your information we have a motion for a do not pass, moved and seconded. Now we are having the discussion about that motion.

Senator Diane Larson: Because we do know that there are going to be employers that will require their employees to be open and so that is just going to create a whole lot more people that will have to then work on Sunday morning that currently don't have too. I asked my lady friend at the mall how often she has to renew her lease, at the mall because once she renews her lease she will probably be required to be open and she that is usually every 4-5 years. So maybe now she doesn't have to move her store out of the mall to be able to choose to stay closed on Sunday. But within another few years, she would have to. So I am not going to be to support this bill, again this time.

Chairman Burckhard: But you are supporting in motion.

Senator Diane Larson: My motion was for a do not pass. Yes.

Senator Kannianen: I will be supporting the bill as I see it both ways where I certainly on a personal level with my family and I how I take seriously our personal worship and our Sabbath day and it certainly is a part of me when people giving testimony talk about the tradition their faith tradition and a day of rest, I certainly there is a big part of me that is disappointed to see the way society is going drifting away from that. But as far as this particular bill goes, it is just about personal choice with private business transactions, is the way I see it. The right for private businesses to choose when they will be open, and as far as the DOT or other things, or postal workers, I mean with the government being the employer, they can chose when to do that if they want their employees work on Sunday that is their prerogative of the employer being the government. In this case with private business, retail businesses, I just think they should have that choice even if it is something that I would personally disagree with or I wouldn't do. I just think that those transactions shouldn't be dictated by us as far what hours or what days. As far as employees of those individuals, it can be challenging for those people that maybe in their minds think that they would be forced to work to work on Sunday morning. But it still a matter of choice in terms to find another job or seek another job. It is still a matter of choice among business, even if it was something that I wouldn't personally do or agree with.

Chairman Burckhard: What day is the Sabbath for your faith?

Senator Kannianen: For me its Sunday, but I guess going down that line, its' different for some in other faith areas.

Chairman Burckhard: I would say this about this emotion. I am going to vote against this motion because this is many issues. This is a border issue between Minnesota and North Dakota, rural versus urban issue, faith issue, there are a lot of things that play into this. I think Blue Laws should mirror the public opinion. I think in most cases, and my Pastor is going to disagree with me, in most cases I think people think that the Blue Laws should reflect that opinion and be open whenever the business person wants to be open. What I heard best

was the lady from Menards said. I already work on Sunday, to restock the shelves at 10 o'clock and the customers come in at noon. Now we'll be stocking the shelves while the customers are in there. It is really not different for, I don't think it is going to affect the people who work. I think it is going to affect more of the people who shop and when they shop. I just think it is time to make the correction and make the switch. I will be voting no against this motion.

Senator J. Lee: A couple of things. One is I have gone twice to Kirkwood Mall, once on Sunday to shop at home and the shop was not open at all on Sunday. I went last night before 8PM because by the time I got there it was 8:10, and the store closes at 8, even though the mall doesn't close until 9PM. So if there is somebody in the Kirkwood Mall apparently they don't have the same rules as the West Acres Mall does, cause if you're a mall store you do have to stay open for the whole shift, which is why some people move. But I know there is some latitude. But having watch where this happened for example when Moorhead went to Sunday opening, there were a lot of people who were happy not just about the shopping part, but there was an actual interest in people working those Sundays, so they might 1) if they had children they might have a spouse that did not work on Sunday and could babysit and they didn't have daycare costs as well 2) if you do have an appointment with a doctor or an accountant, that they would have the potential to have a day available Monday through Friday when they could see the other person working day. I think allowing some options for that is really important. The communities themselves can decide what's going on. There was an article in the Fargo Forum, just last week, and it talked about having interviewed one of the managers at Target and he said, we're always having employees on Sundays. If a truck comes in at 4AM you've got to have people to unload the truck. I think you're right about it being regional but it is a time thing.

Senator Anderson: We're going to leave it up to local control now.

Chairman Burckhard: Any other discussion on this motion for a do not pass?
Roll call vote: motion fails 2-4

Senator J. Lee moved a do pass motion

Senator Kannianen: 2nd the motion

Roll call vote: 5 Yea, 1 No, 0 Absent

Carrier: Senator Judy Lee

Date: 3/14/2019
Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1097**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description:

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider

Motion Made By Senator Deanie Larson Seconded By Senator Anderson

Total (Yes) 2 No 4

Absent

Floor Assignment Motion fails

If the vote is on an amendment, briefly indicate intent:

Date: 3.14.2019
Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1097**

Senate Political Subdivisions Committee

Subcommittee

Amendment LC# or Description:

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Reconsideration
 Other _____

Other Actions: Reconsider _____

Motion Made By Senator J. Lee Seconded By Senator Kammie

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Judy Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1097: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends
DO PASS (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1097 was placed
on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1097

12.1-30-01. Business or labor on Sunday - Exemptions - Classification of offenses.

1. Except as otherwise provided in sections 12.1-30-02 and 12.1-30-03, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to do any of the following activities:
 - a. Engage in or conduct business or labor for profit in the usual manner and location.
 - b. Operate a place of business open to the public.
 - c. Authorize or direct that person's employees or agents to take action prohibited under this section.
2. The prohibition in subsection 1 does not apply to a person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath.
3. The attorney general, a state's attorney, a mayor, a city manager, or a city attorney may petition a district court, for the district where a violation is occurring, to enjoin a violation of this section.

12.1-30-02. Items prohibited from sale or rental on Sunday.

Except for items sold at hobby shows, craft shows, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:

1. Clothing other than work gloves and infant supplies.
2. Clothing accessories.
3. Wearing apparel other than that sold to a transient traveler under emergency conditions.
4. Footwear.
5. Headwear.
6. Home, business, office, or outdoor furniture.
7. Kitchenware.
8. Kitchen utensils.
9. China.
10. Home appliances.
11. Stoves.
12. Refrigerators.
13. Air-conditioners.
14. Electric fans.
15. Radios.
16. Television sets.
17. Washing machines.
18. Dryers.
19. Cameras.
20. Hardware other than emergency plumbing, heating, cooling, or electrical repair or replacement parts and equipment.
21. Tools other than manually driven hand tools.
22. Jewelry.
23. Precious or semiprecious stones.
24. Silverware.
25. Watches.
26. Clocks.
27. Luggage.

- #1
28. Motor vehicles other than the daily rental of vehicles by businesses whose sole activity is automobile rental.
 29. Musical instruments.
 30. The sale of aural or video recordings, records, or tapes. Rental of these items is permitted.
 31. Toys other than those customarily sold as novelties or souvenirs.
 32. Mattresses.
 33. Bed coverings.
 34. Household linens.
 35. Floor coverings.
 36. Lamps.
 37. Draperies.
 38. Blinds.
 39. Curtains.
 40. Mirrors.
 41. Cloth piece goods.
 42. Lawnmowers.
 43. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted.
 44. Paint and building and lumber supplies.

12.1-30-03. Businesses allowed to operate on Sunday - Limitations.

Subject to the limitations of this section and section 12.1-30-02, a business specified in this section may operate in the business's usual manner, location, and for its usual purposes. The businesses authorized under this section to operate on Sunday include:

1. Restaurants, cafeterias, or other prepared food service organizations.
2. Hotels, motels, and other lodging facilities.
3. Hospitals and nursing homes, including the sale of giftware on the premises.
4. Dispensaries of drugs and medicines.
5. Ambulance and burial services.
6. Generation and distribution of electric power, water, steam, natural gas, oil, or other fuel used as a necessary utility.
7. Distribution of gas, oil, and other fuels.
8. Telephone, telegraph, and messenger services.
9. Heating, refrigeration, and cooling services.
10. Railroad, bus, trolley, subway, taxi, and limousine services.
11. Water, air, and land transportation services and attendant facilities.
12. Cold storage warehouse.
13. Ice manufacturing and distribution facilities and services.
14. Minimal maintenance of equipment and machinery.
15. Plant and industrial protection services.
16. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
17. Newspaper publication and distribution.
18. Newsstands.
19. Radio and television broadcasting.
20. Motion picture, theatrical, and musical performances.
21. Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
 - a. Air-conditioning system.
 - b. Batteries.
 - c. Electrical system.
 - d. Engine cooling system.
 - e. Exhaust system.
 - f. Fuel system.

- #1
- g. Tires and tubes.
 - h. Emergency work necessary for the safe and lawful operation of the motor vehicle.
 - 22. Athletic and sporting events.
 - 23. Parks, beaches, and recreational facilities.
 - 24. Scenic, historic, and tourist attractions.
 - 25. Amusement centers, fairs, zoos, and museums.
 - 26. Libraries.
 - 27. Educational lectures, forums, and exhibits.
 - 28. Service organizations (USO, YMCA, etc.).
 - 29. Coin-operated laundry and drycleaning facilities.
 - 30. Food stores operated by an owner or manager in addition to not more than six employees working in the store at one time on a Sunday; however, the governing body of a city or county may, by ordinance, increase the number of employees allowed to work in a store at one time on a Sunday.
 - 31. Bait shops for the sale of live bait and fishing tackle.
 - 32. Floral nurseries.
 - 33. Christmas tree stands.
 - 34. Hobby shows, craft shows, fairs, and exhibits.
 - 35. Occasional rummage sales, including garage sales or other sales for which a sales tax permit is not required.
 - 36. Community festivals licensed or authorized by the governing body of a city or the board of county commissioners.
 - 37. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in section 5-02-05.
 - 38. Credit approval services, lodging and travel reservation services, and, notwithstanding section 12.1-30-02, telemarketing of goods and services.
 - 39. Bingo halls and onsite food concessions between the hours of twelve midnight and one a.m. and within the hours permitted under section 12.1-30-01.

12.1-30-04. Retail business leases or agreements - Penalty.

A retail business may not be required to be open on Sunday as a part of a lease agreement, franchise agreement, or any other contractual arrangement. A violation of this section is a class A misdemeanor.

7:30 a.m. Sunday, July 22, 2018. Hugo's Family Market



8:00 a.m. Sunday, August 12, 2018. Valley Dairy, Grand Forks



Brandon Medenwald #3
11/9/19
HB 1097

Chairman Keiser and members of the Committee, it's an honor to speak with you this morning. After I finish these remarks, I welcome your questions. There are few as familiar with this law as I, and there is not an argument for or against that I haven't heard and cannot address.

My name is Brandon Medenwald, and I'm the co-founder of Simply Made Apps, a software company located in downtown Fargo. I'm also the founder and chairman of North Dakota Open on Sundays: a grassroots, nonpartisan group of citizens organized to repeal the Sunday Closing law.

We believe it is the right of all business owners, like myself, to choose when we wish to operate. Many businesses have this right, such as farms, hospitals, restaurants, and even bait shops and Christmas tree stands. Today I'm asking this committee to allow other businesses that same freedom.

It's important to note that my business is not impacted by this law, and that I don't shop on Sunday mornings. I'm here because I believe this repeal promotes fairness and quite frankly is the right thing to do.

North Dakota has been trying for 130 years to craft a version of the Sunday Closing law that makes sense. The dilemma is that it cannot be done. There is no version of this law that can allow for emergencies (see hospitals, power plants), recreation (see bait shops and alcohol sales), and still not restrict the freedom of its citizens from conducting transactions that I think we can all safely agree are moral and acceptable. One person's leisure is another person's sin. One person's emergency is a convenience to another.

The last time this law was amended, it was 2015 and the so-called "brunch bill." This change allowed for alcohol sales at 11am to permit bars on the border to compete for football fans on Sunday. Not only has this change resulted in ZERO adverse effects, but it demonstrates that this body has recognized some businesses on the North Dakota side of the river have a need to compete with those in neighboring states.

Rather than attempt to make sense of this "Swiss cheese" law that contains over 80 exceptions, we can rather place this responsibility with the people of North Dakota where it belongs.

To be clear: repealing this law does not force businesses to open on Sunday mornings. To the contrary, repealing this law allows those that wish to open to do so while permitting those that wish to remain closed to do so. Repealing this law also does not force consumers to patronize these businesses on Sunday morning. Everyone can decide for themselves.

There are a few arguments against this repeal that are always proffered, so I'll preemptively address them now.

The first argument is that communities need common time for rest. You'll never hear me contend that rest, relaxation, family time, or religious celebration aren't crucial to society. However, there is no version of this law that can account for the differences in work circumstances, in family activity, in religion, or in community events that occur in our lives. It's hubris to think that we can mandate that everyone rest for the same 12 hour period each week regardless of their circumstances.

#3
1/9/19
HB 1097

Last summer I spoke to a first responder's wife in Fargo. Her husband works Sunday mornings, and I think we can all agree that it's critical to have police, firefighters, and paramedics working 24/7. She told me that she would prefer to take her two children and complete their errands Sunday morning so when her husband was done working for the day, they could spend family time together. This law inhibits her family time, and she is not alone.

This body speaks at great length in these halls about freedom and personal responsibility. Why does the state government not trust the people to make responsible choices in their best interests? Or better still, why does the government care at all about how North Dakotans spend their time?

The second argument I hear repeatedly is that businesses don't want to be forced to open, and they wouldn't find help even if they could. Businesses won't be forced to be open any more than every other day of the week. Many cities in North Dakota have big-box chains or convenience stores that are open 24/7. This practice hasn't forced all retailers and gas stations to be open all night. Why should we assume that all retail businesses would operate differently if some were permitted to open a few hours earlier on Sunday? Remember what happened after noon openings were allowed in 1991: some stores opened, some didn't, and life moved on.

I grew up in Lidgerwood, North Dakota, with a population of around 600 people. In Lidgerwood, the hardware store is closed all day on Sunday. Like many small towns, if someone had a project and really needed something, they called John, and he'd head over to the store and sell them what they needed. That's what we in small-town North Dakota do. If HB-1097 passes, the hardware store will still be closed all day Sunday. The only thing that will change is that John won't be committing a class B misdemeanor while he's helping out a neighbor.

Please also remember: this law does not prohibit people from working on Sunday mornings. This law only prohibits stores from opening their doors. These employees are already working, cleaning the store, doing inventory, and so on. At Fleet Farm, just blocks from my house in south Fargo, every Sunday morning at 10am employees are busy at work.

Finally, I want to address the argument that people have 6 1/2 days to shop, why can't they live without shopping on Sunday mornings? Don't they have all day Saturday to shop? Putting aside many North Dakotans work all day Saturday, the better question is: should it be the role of government to care how citizens spend their time on Saturdays or Sundays?

We could, right now, pass a law that prohibits all restaurants from selling pancakes on Thursday mornings. That same argument could then be made: don't you have 6 1/2 other days to eat pancakes? Do you need to eat pancakes every day? Again, the better question is: should the state government be in the business of caring when its citizens choose to eat pancakes? There is no effect on my life if someone eats pancakes on Thursday morning, or buys a garden hose at 11:30am on Sunday.

In conclusion, I'm asking today that we no longer have on the books a top-down edict from the state government imposing its inflexible rule on how to spend your time above the judgement of individual North Dakotans everywhere. I encourage this Committee to issue a Do Pass recommendation on HB-1097. At this time, I look forward to fielding your questions and comments. Thank you, Mr. Chairman and members of the Committee.

2

#4
HB 1097
1/9/19

HB 1097 - House IBL Committee
Honorable George Keiser - Chair
January 8, 2019
Testimony of Arik Spencer
Greater North Dakota Chamber of Commerce

Mr. Chairman and members of the committee, my name is Arik Spencer, President and CEO of the Greater North Dakota Chamber, which is the largest statewide business advocacy organization in ND. We stand in support of HB 1097.

The GNDC has long supported eliminating restrictions on opening on Sunday mornings to those who own or operate privately held businesses. To us, this is an issue of economic freedom.

We believe there are several important reasons why we urge passage of this bill.

Number #1: Economic Freedom

There are numerous reasons stores open and close when they do. A primary driver is consumer demand in which customers tell us through their spending decisions if they will support additional hours of operation. Based on this, some businesses operate during regular business hours, while others are open twenty-four hours per day. Because businesses can determine what hours they wish to open, they may decide to remain closed on Sundays, such as national chains like Hobby Lobby and Chik Fillet due to personal philosophies. Whatever the reason for being open or closed we believe the decision belongs to the proprietor, not to the state.

Number #2: People are already Work on Sunday Mornings

Employees in many industries including retail already work on Sundays. Retail workers, while being barred from opening the doors until noon, stock shelves and complete other activities already. The Blue Laws do not stop them from working on Sunday morning. Rather, the Blue Laws stop their employers from making money while the doors are closed to the public.

Number #3: Online Purchases

Blue Laws give an unfair advantage to online sales which happen unabated regardless of Blue Laws.

Number #4: Border Cities & Tax Revenue

Sunday morning store closings in a border city give a sister city in a neighboring state an advantage. When North Dakota citizens chose to shop across the border in a neighboring state on Sunday mornings their sales tax dollars cross the border with them.

Mr. Chairman, this concludes my testimony and I ask for a "do pass" recommendation on HB 1097.

#5
1/9/19

House Bill 1097

Presented by:

Mike Fedorchak

State Director AFP-ND

Before:

House Industry, Business and Labor

The Honorable George Keiser, Chairman

Date:

January 9, 2019

Chairman Keiser and committee members, my name is Mike Fedorchak, I am the State Director for Americans for Prosperity-North Dakota. Although AFP has been present in North Dakota in the past, this is the first session since we started a full-time chapter in North Dakota. Thank you for the opportunity to speak.

Americans for Prosperity has a strong history of supporting lower taxes, smaller government and less regulation on businesses. Today we would like to address House Bill 1097 concerning Sunday blue-laws. As a father, husband and member of the Cathedral parish I can fully appreciate the intent of the laws when they were created.

But today we live in a much different world. For business owners the playing field has changed dramatically. Today consumers can shop 24 hours a day 7 days a week from the comfort of their homes or from the convenience of a

H 5
1/9/19
HB 1097

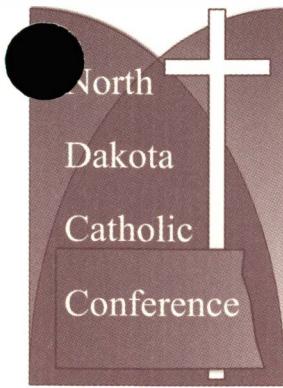
smart phone. Imagine owning a retail business competing daily against the likes of Amazon. A competitor who never closes its doors, turns off the lights, or takes holidays and weekends off.

North Dakota is the only state remaining with blue laws. These outdated laws restrict today's business owners from the ability to be more competitive, offer more customer service and generate more sales.

This coming Sunday, after church, I can go to the grocery store and buy food, flowers, shampoo and coffee before noon. I can go to bismanonline.com and buy a car, grill or golf clubs. But I cannot go to a Scheels, Arrowhead Drug or Ace Hardware to buy those same items.

The time has come to embrace House Bill 1097 and repeal the states blue laws. Chairman Keiser this concludes my testimony. Thank you.

#6
HB1097
1/9/19



Representing the Diocese of
Fargo and the Diocese of
Bismarck

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To: House Industry, Business and Labor
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1097 - Repeal of Sunday Morning Law
Date: January 9, 2019

The North Dakota Catholic Conference opposes House Bill 1097.

Plato noted that when it comes to lawmaking prudence is chief among virtues. Every public policy proposal ought to be judged by its probable long-run consequences and not merely its temporary advantage or popularity. Moreover, the presumption should rest in favor of retaining the wisdom of our predecessors while the purveyors of change should have the burden of making a compelling case for change.

So let us examine their case.

We have heard that the purpose of the current law is to impose times of worship and adherence to religious doctrine. Our courts, however, have repeatedly rejected this canard, holding that the “purpose of our Sunday closing statutes is, not to aid religion, but to set aside a day of rest and recreation.”¹

We have heard that numerous exceptions already exist and some seem inconsistent. This is true, but it is not itself an argument for repeal any more than it is an argument for scaling back the exceptions. We should keep in mind the principle in lawmaking that the devil we know is preferable to the devil we don’t know.

We have heard that repealing the law can aid North Dakota’s budget and economy. Maybe, but at what price? A truly healthy economy is not one that succumbs to an unbridled demand for private profit and government revenue. It is instead one that fosters the common good so that people can fully develop as human persons.

We have heard that the law gives bordering states an unfair economic advantage. That claim is spurious considering our strong economy.

Nevertheless, even if it is true, a race to the bottom by every state is not a desirable outcome and defeats the very purpose of having states.

We have heard that the law hurts the economy and makes North Dakota undesirable as a place to live. According to *U.S. News and World Report*, North Dakotans enjoy the best quality of life in the nation. We have been one of the five fastest-growing states percentage-wise since 2010. North Dakota made the list of 10 Best States to Start a Business. Year-over-year taxable sales and purchases have increased every quarter since April 2017.²

We have heard that a repeal would merely allow those who wish to open to do so while permitting those who want to close to remain closed. This claim is so contradicted by the facts that it is difficult to take seriously. Two years ago I was told by Canadian reporters that the Winnipeg Chamber of Commerce members wanted to stay closed Sunday mornings but that if North Dakota changed its law, they would have no choice but to change the province's law to allow opening earlier. Go to any state that allows businesses to open Sunday morning and you will find nearly all businesses open. Two national chains are often cited as examples how a business can stay closed on Sunday if it chooses. But the fact that we can name just two out of the hundreds of thousands of businesses in the country indicates that they are the exception that proves the rule.

A free market is a good thing, but without reasonable parameters that place it at the service of the human person, the economy can become a powerful force that removes true choice and freedom. Most often it is the smallest businesses that hurt the most.

Humans and communities need periods of rest and free time that allow them to tend to family, cultural, social, and religious life. Only when communities set aside time devoted to these functions can human persons prosper and develop. The people who helped make North Dakota the great state it is understood this. Their collective experience taught them that some things are more important than profit and convenience. We owe it to them and future generations to preserve this part of the North Dakota way of life.

We urge a **Do Not Pass** recommendation on House Bill 1097.

¹ *State v. Gamble Skogmo, Inc.*, 144 N.W.2d 749 (N.D. 1966) at 769; *Best Products Co., Inc. v. Spaeth*, 461 N.W.2d 91 (ND 1990); *McGowan v. Maryland*, 366 U.S. 420 (1961) [quoting Justice Stephen Field: "In its enactment, the Legislature has given the sanction of law to a rule of conduct which the entire civilized world recognizes as essential to the physical and moral wellbeing of society. Upon no subject is there such a concurrence of opinion among philosophers, moralists and statesmen of all nations as on the necessity of periodical cessations from labor. One day in seven is the rule, founded in experience, and sustained by science. . . The prohibition of secular business on Sunday is advocated on the ground that, by it, the general welfare is advanced, labor protected, and the moral and physical wellbeing of society promoted."]

² 2019 State of the State Address, Governor Doug Burgum (<https://www.governor.nd.gov/sites/governor/files/documents/2019%20State%20of%20the%20State%20Final%20Copy.pdf>)

#7
HB 1097
1/9/19

Good morning, I am Pastor Douglas VanderMeulen from Community Baptist Church in Fargo, North Dakota. I appreciate the opportunity to address this committee this morning on House Bill 1097.

I do not support the repeal of the Blue Laws believing that such an action is not in the best interest of North Dakota and is in conflict with other sections of the Century Code such as 34-06-05.1

I am in favor of legislation that strengthens what is already in our Century Code, 34-06-05.1, “*1. An employer may not require an employee to work seven consecutive days....or deny an employee at least one period of twenty-four consecutive hours of time off for rest or worship in each seven-day period. The time off must be in addition to the legal periods of rest allowed during each day worked. An employer shall accommodate the religious beliefs and practices of an employee...*

Any legislative action concerning the Blue Laws should be done in a manner that guarantees the individual will not be required to work on his/her day of weekly worship. It should further ensure someone will not be refused employment because he/she requests a particular day off for weekly worship.

It is essential that we keep in mind the role of government. The government does not have the responsibility to ensure businesses make as much money as they can on as many days as they can. A government may help create an environment that either helps or hinders capitalistic endeavors, but its calling is not to guarantee the success or maximize the profitability of any particular business or even all companies in general. It is the business owners responsibility to plan for making a profit and expanding their companies. When government gets involved, it is commonly known as Crony Capitalism.

The government does have the responsibility to protect the rights, privileges, and well-being of all its citizens. There is no constitutional right to having a profitable business. There is no specific constitutional right for a business to be open 24/7. There is however an explicit constitutional right that guarantees the free exercise of religion. It is in the best interest of a government to protect all the rights and freedoms of its people.

The question before this committee today is more substantial than merely “Should we be doing business on the Lord’s Day?” As legislators, you must be vigilant to consider the moral consequences of any legislation. What will be the consequences of repealing the Blue Laws if there is with no regard to how such an action will impact religious practices and moral fiber of our society?

We all live, and then we die. Few in this room today will still be among us in a few decades, yet North Dakota will still exist. What kind of state will North Dakota be then? What impact will repealing the Blue Laws have on our children and grandchildren? What sort of heritage do we want to leave behind? Is the golden future of North Dakota to be measured by the freedom to purchase anything a person wants whenever they want it? Is this the measure of a great society?

So why should this legislature not repeal the Blue Laws and rather strengthen the guarantee for individuals freedom of religion and the free exercise of a day for weekly worship?

Let's start by asking how you want to be remembered as legislators? As those that guaranteed the right to buy a beer at 8:00 AM on Sunday morning in a state that is already has a severe problem with binge drinking? Or maybe as the legislators that kept your grandchildren from going to church because their employer required them to be at work? What will be your legacy?

Another question is what is the overriding goal of HB 1097 for North Dakota? In considering the complete repeal of the Blue Laws, what are you hoping to achieve? A few extra hours to buy things? Does anyone believe that having a longer work week, so people will have more hours to buy more stuff is going to make us happier? Will we be a better society because we can buy anything we want seven days a week?

While the Blue Laws were being eroded there has been in North Dakota an increase in drug addiction, alcohol abuse, suicide, problems in our schools, the breakup of our families, and the decline in religious observances. So far the secularization of our society has not produced happiness and well-being among our people. Is anyone here persuaded that the social ills just listed will improve if we can have a few more hours to go shopping?

We all start as children needing to grow in grace, wisdom, and stature. Every child needs moral instruction. Did you have to teach your children to lie or to tell the truth? Did you have to teach your children to be selfish? Instead, you trained them to be concerned for others, love their neighbors, and be kind to others different from them? Did you ever have to teach your children to be lazy or did they just instinctively worked hard and do all their homework and chores? Morality and virtue are delicate and must be nurtured over many years.

Morality is the foundation of a healthy society and a free economy. Without a moral people, we cannot have a free society or practice free enterprise. It is a moral people who work hard to produce useful products sold at a fair price. It is a moral people who purchase products and pay for them in a timely way. It is a moral people that employers can trust to run their businesses and not be ripping off them or their customers.

From where will this moral training come? For good or bad, we now say that a government should not impose morality on the people. For better or worse, we have promoted a so-called "value-free" and "judgment-free" education where the school is not permitted to teach moral absolutes or correct inappropriate behavior. Our families are breaking up. Divorce is up. Children raised by someone other than their biological parents is up. From where will the moral training come? It will come from places of worship where the moral will of God can be freely and regularly be taught and learned.

Who will the those most likely to be employed early on Sunday morning? The youngest and least experienced among us. It is seriously doubtful that anyone on this committee will be required to get up early on Sunday morning to go work in a retail store. Please do to others as you would have them do to you.

Please do not repeal the Blue Laws. Please do not sacrifice the free exercise of religion on a weekly basis for a few hours longer to work and shop. Please remove any loopholes from the Century Code 34-06-05.1 that permit an employer to ignore an employee's weekly religious observance or not to hire someone who requests a particular day off for weekly religious observance.

Please protect religious freedom in North Dakota.

Rep. Hoverson

#8
HB 1097
1/9/19

Cover letter recommending DO NOT PASS HB 1097 pertaining to Sunday Blue Laws Repeal

FAIRNESS

Commerce / State have, historically, enjoyed a complimentary relationship with the church. John Adams was one of the best articulators of the basis for our Constitutional Republic and what it would take to have a "SELF GOVERNING" America. He said, and I paraphrase, "This Republic is made for a moral and virtuous people, it is wholly inadequate for any other". Both Thomas Jefferson (author of the Declaration of Independence) and James Madison (father of the Constitution) supported Sunday Closing "Blue" laws in their writings.

There are three institutions at play in this bill: State, Commerce, and Church. The same Almighty God in the preamble of our ND Constitution set this up when He, Himself, "ceased from His Labor". So, in 1991, ND made a FAIR compromise. Commerce had 6 days, the church had one. Then Commerce wanted a repeal and they were given a half day.

Now, commerce wants the whole week. This is a long-standing history that goes way back to our founding fathers and before. I have quotes from many of them that supported and implemented the Blue Laws in various ways. I can provide copies. They knew their constitution, government, the Bible and the IMPORTANCE OF THE CHURCH'S ROLE IN A SELF-GOVERNING SOCIETY.

Are we the generation that wants to repeal this? ND is a leader in this. This is one of the reasons why we have a great quality of life. Unlike other repeals, once this one is gone, it will be gone forever; because once commerce is that much in Sunday mornings, we will not be able to change that.

DESIGN

In fact the Seven-day week that we all follow is directly from the same place in the Bible as the Rest day. Just as following the seven day week is not considered a religious practice for the state's purposes, neither is a Rest day. It is simply aiming to place restrictions, as best we can, in line with what is already true about how we are designed and how things were created to be.

For example, if we were to try to make an 8-day week, we sure could, but we would do that to our own peril. We would see many societal problems, stress related, psychological issue as they have already.

We already do this in other ways. Almighty God, created the LAW of gravity, for example. That is not a matter of "religion", but we do well to line up our culture best to concur with that natural law.

SEE PLIERS ANALOGY

Do we really want to leave the next generations to only know every day to be the same.

FREEDOM

What about locally owned businesses who will be forced to compete in order to keep up with corporate business. This vote has two choices, one is permanent the other is not. Please vote NO to the repeal.

Respectfully submitted, Representative Jeff Hoverson - 701 340 8237

Some will say, "things are moving in the direction of the repeal". Is that a good thing? No. It is about a whole community.

Rep. Hoverson

#8
AB 1097
1/9/19

Jeff Hoverson, and members of the ND House of Representatives,

I understand the state legislature is considering changing the Sunday "Blue Laws"....I would strongly suggest that you do. I would return to the previous laws that closed all non-essential services on Sunday. My primary reasoning for this change is focused on health concerns.

All you need to do is to turn your TV on in the mornings and watch the morning shows to learn about the importance of proper rest. Scientists and the medical health experts have studied this idea of a day of rest. The benefits of proper rest, and the consequences resulting from its absence, have been well documented.

Chris Freytag has written an article describing six things that happen to your body when you don't take a regular day of rest. Without going into detail, allow me to review those consequences...consequences resulting from a failure to respect and honor the human need for rest. 1. You become irritable and moody. 2. You experience higher rates of injury, and the healing process takes longer. 3. Your sleep suffers.....you are physically tired, but can't sleep. 4. Your immune system is compromised. 5. You face adrenal fatigue. 6. Your performance suffers.

I am fortunate to have heard Doctor Dan Spaite, an emergency room physician, speak regarding the importance of rest. His personal experience and research is in agreement with that of Chris Freytag and others. Dr. Spaite was very clear that the consequences of ignoring the need for a day of rest may not be visible for a period of time. You might say to yourself (and others) that working 7 days a week for 1 week, (2 weeks, 3 weeks, or 4 weeks) is not doing any damage to me or anyone else. The sad truth is that IT WILL take its toll, resulting in illness or premature death.

The primary reasons I have heard touted for doing away with Sunday closing include 1) less loss of business to surrounding states that do not close on Sunday and 2) increased availability of employees in a state with a labor shortage. I have heard business owners state that they have not increased their income when shifting from being open 6 days to being open 7 days, but that it has just resulted in needing to hire increased staff. Then when you consider that we already have a shortage of labor, that simply means that the workers we do have will be working longer days, and / or more days consecutively.

Without the so called "Blue Laws" more people will not be getting the rest they need, they will face the blues, and higher medical bills at that. Simply from the point of reducing medical costs Sunday closing laws would be a benefit rather than a detriment to our state and our economy.

One last thought...so many people say these laws are about religion, and that you can't legislate religion. I do believe that our creator made this a natural law, and that, when we don't keep it, we face the consequences of breaking it....just like the law of gravity....if I jump from a 10 story building, I am going to pay the consequences of the jump. However, this is not a religious law, because we don't say that people have to attend worship or church. No one fines anyone for not going to church or for doing something that might be considered "work" on a Sunday. This is better described as a labor law enabling non-essential workers to stay home and rest so that they are physically, and emotionally, able to be more productive.

Thank you for your consideration of this very important issue.

Scott Mehlhoff

Minot, ND

#8
HB 1097
1/9/19

Founders on Keeping the Sabbath

John Adams

This Day, I have heard my Parish Priest, Mr. Duffill from 2. Chron. 15. 1. 2. This Gentleman never fails to adapt his Discourse to the Times. He pressed upon his Audience the Necessity of Piety and Virtue, in the present Times of Adversity, and held up to their View the Army before Boston as an Example. He understood, he said, that the Voice of the Swearer was scarcely heard, that the Sabbath was well observed and all Immoralities discountenanced. No doubt there were vicious Individuals, but the general Character was good. I hope this good Mans Information is true, and that this will become more and more the true Character of that Camp. You may well suppose that this Language was exceedingly pleasing to me.¹

Does Mr. Wibirt preach against Oppression, and the other Cardinal Vices of the Times? Tell him the Clergy here, of every Denomination, not excepting the Episcopalian, thunder and lighten every sabbath. They pray for Boston and the Massachusetts-they thank God most explicitly and fervently for our remarkable Successes--they pray for the American Army. They seem to feel as if they were among you.²

I agree with you in sentiment, that religion and virtue are the only foundations, not only of republicanism and of all free government, but of social felicity under all governments and in all the combinations of human society. But if I should inculcate this doctrine in my will, I should be charged with hypocrisy and a desire to conciliate the good will of the clergy towards my family, as I was charged by Dr. Priestley and his friend Cooper, and by Quakers, Baptists, and I know not how many other sects, for instituting a national fast, for even common civility to the clergy, and for being a church-going animal.

If I should recommend the sanctification of the sabbath, like a divine, or even only a regular attendance on public worship, as a means of moral instruction and social improvement, like a philosopher or statesman, I should be charged with vain ostentation again, and a selfish desire to revive the remembrance of my own punctuality in this respect; for it is notorious enough that I have been a church-going animal¹ for seventy-six years, from the cradle. And this has been alleged as one proof of my hypocrisy.³

The combination of a very few ideas has been sufficient to excite apprehensions that the West India Islands would soon become a scene of piracy. The dissolution of all principles of morals, government, and religion, the formal repeal of the ten commandments, by which it is become as lawful to covet, steal, kill, as it is to profane the Sabbath or commit adultery, the proclamation of liberty to the negroes in the West India Islands, and the policy of one or more nations of Europe to erect predatory powers in the West Indies, to be employed against the United States, as the Barbary powers in Europe have long been supported and encouraged against the small maritime states, have long ago raised suspicions and forebodings, that the most desperate wretches in Europe would be allured to the Islands, and give direction to the mass of African bones and sinews which is now in liberty and idleness, or trained to military discipline.⁴

¹ "Recollect here your definition of a New England man, given to one of your friends in Amsterdam. It was, 'He is a meeting-going animal.' " B. Rush to J. A.

HB 1097
1/9/19

That piety and virtue, which alone can secure the freedom of any people, may be encouraged, and vice and immorality suppressed, the Great and General Court have thought fit to issue this proclamation, commanding and enjoining it upon the good people of this colony, that they lead sober, religious, and peaceable [196] lives, avoiding all blasphemies, contempt of the Holy Scriptures, and of the Lord's Day, and all other crimes and misdemeanors, all debauchery, profaneness, corruption, venality, all riotous and tumultuous proceedings, and all immoralities whatsoever; and that they decently and reverently attend the public worship of God, at all times acknowledging with gratitude his merciful interposition in their behalf, devoutly confiding in him, as the God of armies, by whose favor and protection alone they may hope for success in their present conflict.⁵

Samuel Adams

Pray let me know whether the newspapers have not done him injustice in announcing that he made his entrance into Boston on Sunday. I should think they had; for a well-bred man will carefully avoid counteracting the vulgar prejudices or injuring the feelings of the people where he may happen to be.⁶

Elias Boudinot

I am tired with the labors of the day. Tho' the Sabbath, I have been writing almost all day.⁷

Charles Carroll

On the Friday the 28th as the Journal records, Charles Carroll had leave of absence till the following Wednesday "on account of the indisposition of his family." But he was in his place again on Sunday the 30th, the Convention meeting on the Lord's Day, a practice kept up by the Maryland legislators, one is surprised to see, sometime after there was any ostensible need for it.⁸

John Dickinson

[A]ll persons are hereby fervently exhorted, to observe the Lord's Day, commonly called Sunday, and thereon constantly to attend the worship of GOD, as a service pleasing to him who is, "*a hearer of prayer,*" and condescends to "*inhabit the praises of his people,*" and profitable to themselves; a neglect of which duty has, in multitude of instances, been the beginning of a deviation into the ways of presumption, that at length have led into the deepest distresses and severest sorrows.

AND for further promoting such reformation, it is hereby enjoined, that all magistrates, and others whom it may concern, be very vigilant and exact in discovering, prosecuting, and punishing all persons who shall be guilty of profanation of the Lord's Day, commonly called Sunday, blasphemy, profane swearing or cursing, drunkenness, lewdness, or other dissolute or immoral practices.⁹

Eliphalet Dyer

We arrived at this place in about 9 days after set out from Hartford, tarryed one day at New Windsor being the sabbath.¹⁰

Benjamin Franklin

#8
HB 10 97
1/9/19

Vindex, however, will never consent to this. He has made us partakers in all the odium with which he thinks fit to load Scotland: "They resemble the Scots in sentiments (says he) their religion is Scottish; their customs and *laws* are Scottish; like the Scotch they Judaically observe what *they call* the Sabbath, persecute old women for witches, are intolerant to other sects, &c." But we must not, like the Scots, be admitted into Parliament; for that, he thinks, would increase "the Scotch interest in England, which is equally hostile to the cause of liberty, and the cause of our church."

Pray, Sir, who informed you that our "*laws* are Scottish?" The same, I suppose, that told you our Indian corn is unwholesome. Indeed, Sir, your information is very imperfect. The common law of England, is, I assure you, the common law of the colonies: and if the civil law is what you mean by the Scottish law, we have none of it but what is forced upon us by England, in its courts of Admiralty, depriving us of that inestimable part of the common law, trials by juries. And do you look upon keeping the *Sabbath*, as part of the Scottish law? "The Americans, like the Scots, (you say,) observe what *they call* the Sabbath." Pray, Sir, you who are so zealous for your church (in abusing other Christians) what *do you call* it? and where the harm of their *observing* it? If you look into your prayer-book, or over your altars, you will find these words written, *Remember to keep holy the sabbath Day*. This law, tho' it may be observed in Scotland, and has been *countenanced* by some of your statutes, is, Sir, originally one of *God's Commandments*: a body of laws still in force in America, tho' they may have become *obsolete* in *some other* countries.¹¹

I received your excellent Paper on the preferable Use of Oxen in Agriculture, and have put it in the way of being communicated to the Public here. I have observed in America that the Farmers are more thriving in those Parts of the Country where Cattle are used, than in those where the Labour is done by Horses. The latter are said to require twice the Quantity of Land to maintain them, and after all are not good to eat, at least we don't think them so. Here is a Waste of Land that might afford Subsistance for so many more of the human Species. Perhaps it was for this reason that the Hebrew Lawgiver, having promis'd that the Children of Israel should be as numerous as the Sands of the Sea, not only took care to secure the Health of Individuals by regulating their Diet that they might be fitter for procreation, but also forbid their using Horses, as those Animals would lessen the Quantity of Subsistence for Men. Thus we find, that when they took any Horses from their Enemies, they destroy'd them; and in the Commandments, where the Labour of the Ox and the Ass is mention'd and forbidden on the Sabbath, there is no mention of the Horse, probably because they were to have none. And by the great Armies suddenly rais'd in that small Territory they inhabited it appears to have been very full of People.¹²

Your Story of the Clergyman and Proclamation is a pleasant one. I can only match it with one I had from my Father, I know not if it was ever printed. Charles I. ordered his Proclamation, authorizing Sports on a Sunday, to be read in all Churches. Many Clergymen comply'd, some refus'd and others hurry'd it through as indistinctly as possible. But one, whose Congregation expected no such thing from him, did nevertheless, to their great Surprise, read it distinctly. He follow'd it, however, with the Fourth Commandment, *Remember to keep holy the Sabbath Day*, and then said, Bretheren, I have laid before you the Command of your King and the Commandment of your God. I leave it to your selves to judge which of the two ought rather to be observed.¹³

#8
HB 1099
1/2/19

Keimer and I liv'd on a pretty good familiar Footing and agreed tolerably well: for he suspected nothing of my Setting up. He retain'd a great deal of his old Enthusiasms, and lov'd Argumentation. We therefore had many Disputations. I us'd to work him so with my Socratic Method, and had trapann'd him so often by Questions apparently so distant from any Point we had in hand, and yet by degrees led to the Point, and brought him into Difficulties and Contradictions that at last he grew ridiculously cautious, and would hardly answer me the most common Question, without asking first, *What do you intend to infer from that?* However it gave him so high an Opinion of my Abilities in the Confuting Way, that he seriously propos'd my being his Colleague in a Project he had of setting up a new Sect. He was to preach the Doctrines, and I was to confound all Opponents. When he came to explain with me upon the Doctrines, I found several Conundrums which I objected to unless I might have my Way a little too, and introduce some of mine. Keimer wore his Beard at full Length, because somewhere in the Mosaic Law it is said, *thou shalt not mar the Corners of thy Beard.* He likewise kept the seventh day Sabbath; and these two Points were Essentials with him. I dislik'd both, but agreed to admit them upon Condition of his adopting the Doctrine of using no animal Food.¹⁴

Tho' I seldom attended any Public Worship, I had still an Opinion of its Propriety, and of its Utility when rightly conducted, and I regularly paid my annual Subscription for the Support of the only Presbyterian Minister or Meeting we had in Philadelphia. He us'd to visit me sometimes as a Friend, and admonish me to attend his Administrations, and I was now and then prevail'd on to do so, once for five Sundays successively. Had he been, *in my Opinion*, a good Preacher perhaps I might have continued, notwithstanding the occasion I had for the Sunday's Leisure in my Course of Study: But his Discourses were chiefly either polemic Arguments, or Explications of the peculiar Doctrines of our Sect, and were all to me very dry, uninteresting and unedifying, since not a single moral Principle was inculcated or enforc'd, their Aim seeming to be rather to make us Presbyterians than good Citizens. At length he took for his Text that Verse of the 4th Chapter of Philippians, *Finally, Brethren, Whatsoever Things are true, honest, just, pure, lovely, or of good report, if there be any virtue, or any praise, think on these Things;* and I imagin'd in a Sermon on such a Text, we could not miss of having some Morality: But he confin'd himself to five Points only as meant by the Apostle, viz. 1. Keeping holy the Sabbath Day. 2. Being diligent in Reading the Holy Scriptures. 3. Attending duly the Publick Worship. 4. Partaking of the Sacrament. 5. Paying a due Respect to God's Ministers. These might be all good Things, but as they were not the kind of good Things that I expected from that Text, I despaired of ever meeting with them from any other, was disgusted, and attended his Preaching no more. I had some Years before compos'd a little Liturgy or Form of Prayer for my own private Use, viz. in 1728. entitled, *Articles of Belief and Acts of Religion.* I return'd to the Use of this, and went no more to the public Assemblies. My Conduct might be blameable, but I leave it without attempting farther to excuse it, my present purpose being to relate Facts, and not to make Apologies for them.¹⁵

John Hancock

A due observation of the Lord's Day is not only important to internal religion, but great conducive to the order and benefit of civil society. It speaks to the senses of mankind and, by a solemn cessation from their common affairs, reminds them of a Deity and their accountableness to the great Lord of all. Whatever may be necessary to the support of such an institution, in consistence with a reasonable personal liberty, deserves the attention of civil government.¹⁶

#8
AB 1097
1/9/19

Alexander Hamilton

In reviewing the disgusting spectacle of the French Revolution, it is difficult to avert the eye entirely from those features of it which betray a plan to disorganize the human mind itself, as well as to undermine the venerable pillars that support the edifice of civilized society. The attempt by the rulers of a nation to destroy all religious opinion and to pervert a whole nation to atheism, is a phenomenon of profligacy reserved to consummate the infamy of the unprincipled reformers of France. The proofs of this terrible design are numerous and convincing.

The animosity to the Christian system is demonstrated by the single fact of the ridiculous and impolitic establishment of the decades, with the evident object of supplanting the Christian Sabbath. The inscriptions by public authority on the tombs of the deceased, affirming death to be an eternal sleep, witness the desire to discredit the belief of the immortality of the soul.¹⁷

Samuel Holten

4. Sabbath day. The anniversary of the independence of America. I attendd. public worship at christs church. Mr. White preached from Romans c[chapter] xiii & v.1 & 2. "Let every Soul be subject unto the higher powers," &c. At 12 oClock, attended at the Roman catho' church, by invitation from the minisr. to sing Te deum on the occasion. In the afternoon I attended meeting at Doctr. Duffield. very warm.

5. Monday. Congress adjourned at 12 o'clock, & attended an oration.¹⁸

Mr. Livingston was making inquiry in Congress whether the members could inform the house what their states where doing at this alarming crises; Therefore I asked leave to read in my place such parts of your letter as were to the point (1) & I am sure it did honor to the State; and you may be assured that I consider the Courts proceedings to be a work of necessity & therefore has my full approbation 'tho' done on the Sabbath.¹⁹

Samuel Huntington

Although we have abundant reason gratefully to adore the divine goodness, for the degree of plenty, the general health and tranquility, and many other blessings which the people of this state have enjoyed in the year past; yet we ought with humble reverence, to notice the dispensation of divine providence, in permitting devouring insects to destroy the fruits of the earth, and disappoint the hopes of the husbandman in may places, in the last, and same preceding years; and other tokens of the righteous displeasure of Almighty God: and considering the prevalence of vice, the profanation of the Sabbath, neglect of the Gospel and mean of grace, and other immoralities visible in the land: I have thought fit, by and with the advice of council, to appoint, and do hereby appoint, Thursday, the 17th day of April next, to be religiously observed as a day of fasting, humiliation, and prayer throughout this state, earnestly exhorting ministers and people of all denominations, to assemble for divine service, and with sincere repentance of all their offenses, and becoming humility, to implore the forgiveness of all our iniquities and transgressions.²⁰

John Jay

Suppose, when the season becomes more mild, you were to take lodgings at Bristol? The waters would probably be useful to you, you would see as much and as little company as you pleased, and I promise to go to church with you every Sunday.²¹

HB
HB 1097
1/8/19

Divine positive ordinances and institutions, on the other hand, being founded on expediency, which is not always perpetual or immutable, admit of, and have received, alteration and limitation in sundry instances.

There were several Divine positive ordinances and institutions at very early periods. Some of them were of limited obligation, as circumcision; others of them were of universal obligation, as the Sabbath, [404] marriage, sacrifices, the particular punishment for murder.

The Lord of the Sabbath caused the day to be changed. The ordinances of Moses suffered the Israelites to exercise more than the original liberty allowed to marriage, but our Saviour repealed that indulgence. When sacrifices had answered their purpose as types of the great Sacrifice, etc., they ceased. The punishment for murder has undergone no alteration, either by Moses or by Christ.

I advert to this distinction between the moral law and positive institutions, because it enables us to distinguish the reasonings which apply to the one, from those which apply only to the other—ordinances being mutable, but the moral law always the same.²²

On the 20th inst. I received a copy of your report to the General Assembly of Louisiana, under a cover directed to me. To whom I am indebted for it, does not appear; the impression of the seal, which is that of your family, leads me to conjecture that you have had the goodness to send it. There are various important remarks and reflections in it which I believe to be just; and there are others whose weight I cannot venture to estimate, without more thought and investigation than the state of my health admits of [465] I will, however, take the liberty of suggesting a few hints on two of the topics.

That the government of a State should have authority to appoint “particular days for rendering thanks to God” for any signal blessing, or imploring his assistance “in any public calamity,” is certainly proper. But, can any of our governments be rightfully restrained from providing for the observance of the Sabbath, which the Sovereign of the universe had instituted, and which our Saviour has assured us “was made for man”?

Again—Can any government be justifiable in exempting murderers from the punishment of death, in opposition to the positive declaration of the Almighty to Noah, and through him to all his posterity, that “whosoever sheddeth man’s blood, by man shall his blood be shed”; not, I presume, at the discretion of private individuals, but under the cognizance and by the authority of government?²³

Thomas Jefferson

I have duly received your two favors of Nov. 6. & Dec. 13. requesting me to consent to the publication of my opinion on the encroachments of the judiciary of the U.S. expressed in a former letter to you, but my dear Sir, there is a time for things; for advancing and for retiring; for a Sabbath of rest as well as for days of labor, and surely that Sabbath has arrived for one near entering on his 80th year. Tranquility is the summum bonum of that age.²⁴

We have now got over about 400 miles of our tour and have still about 450 more to go over. Arriving here on the Saturday evening, and the laws of the state not permitting us to travel on the Sunday, has given me time to write to you from hence.²⁵

In our village of Charlottesville, there is a good degree of religion, with a small spice only of fanaticism. We have four sects, but without either church or meeting-house. The court-house is

#8
HB 1097
1/9/19

the common temple, one Sunday in the month to each. Here, Episcopalian and Presbyterian, Methodist and Baptist, meet together, join in hymning their Maker, listen with attention and devotion to each other's preachers, and all mix in society with perfect harmony.²⁶

James Kent

"Shortly before my father's death," records Judge William Kent [son of James Kent, a circuit judge], "the conversation having turned upon the foreign custom of attending places of amusement on Sunday, my father said, 'I am by no means an ascetic in religion as you know, yet I was brought up strictly to regard the Sabbath, and I should like my children always to regard it'."

His manner became serious, and after a few minutes he went on: --

"My children, I wish to talk to you. During my early and middle life, I was, perhaps, rather skeptical with regard to some of the truths of Christianity. Not that I did not have the utmost respect for religion, and always read my Bible, but the doctrine of the atonement was one I never could understand, and I felt inclined to consider as impossible to be received in the way divines taught it. I believe I was rather inclined to Unitarianism; but of late years my views have altered. I believe in the doctrines of the prayer books, as I understand them, and hope to be saved through the merits of Jesus Christ."

Some of the family coming into the room, he hastily added: "Go, my children. My object in telling you this is that, if anything happens to me, you might know, and perhaps it would console you to remember, that on this point my mind is clear; I rest my hopes of salvation on the Lord Jesus Christ."²⁷

George Mason

I have not, since I came to this place, except the fast-day and Sunday, had an hour which I could call my own.²⁸

Charles Pettit

Warm Weather increases my Disposition to Indolence. Many little Circumstances have contributed to the Indulgence of it---;even the Situation of my Room exposed to the Afternoon Sun (the Time I should have otherwise have employed in friendly Correspondences) has been a considerable Bar to Industry, and writing by Candlelight in the Summer, I consider like Working on the Sabbath---;to be done only on Occasions of Necessity.²⁹

Benjamin Rush

Amusements of every kind on Sundays beget habits of idleness and a love of pleasure, which extend their influence to every day of the week. In those manufacturing towns in England where the Sundays are spent in idleness or frolicking, little or no work is ever done on the evening day; hence it is called St. Monday. If there were no hereafter – individuals and societies would be great gainers by attending public worship every Sunday. Rest from labor in the house of God, winds up the machine of both soul and body, better than anything else, and thereby invigorates it for the labors and duties of the ensuing week. Should I ever travel into a Christian country, and wish to know whether the laws of that country were wise and just and whether they were duly obeyed, the only question I would ask, should be "do the people spend Sunday at church, or in pleasurable entertainments at home and aboard?" the Sunday schools in England have been found extremely useful in reforming the children of poor people. Who can witness the practices

#8
HB 1097
1/9/19

of swimming, sliding, and seating, which prevails so universally on Sundays, in most of the cities of the United States and not wish nor similar institutions to refuses our poor children from destruction? I shall conclude my remarks upon this subject, by declaring that I do not wish to see any new laws made to enforce the keeping of the Sabbath. I call upon ministers of the Gospel only, to increase and extend, by their influence, the pure and useful spirit of their religion. In riding through our country, we may always tell, by the appearance of the people we meet with on the road, or see at taverns, whether they enjoy the benefit of public worship and of a vigilant and faithful ministry. Where a settlement enjoys these inestimable blessings, we generally find taverns deserted on a Sunday and a stillness pervading the whole neighborhood, as if nature herself had ceased from her labors, to share with man in paying her weekly homage ot God for His creating goodness.³⁰

Joseph Story

On Sunday I went to attend public worship at the Capitol: Mr. Everett preached his famous sermon "Brethren, the time is short"; some passages of which he left out, and in their stead introduced beautiful extracts from his sermon on the future prospects of America. The sermon was truly splendid and was heard with a breathless silence. The audience was very large, and in that magnificent room (the House of Representatives), it had vast effect. I saw Mr. King of New York and Mr. Otis of Massachusetts there; they were both very much affected with Mr. Everett's sermon and Mr. Otis in particular wept bitterly. There were some very touching appeals to our most delicate feelings on the loss of our friends. Indeed, Mr. Everett was almost universally admired as the most eloquent of preachers. Mr. King told me he never heard a discourse so full of unction, eloquence, and good taste.³¹

Jonathan Trumbull

Although God has bestowed upon us in this Colony, many unmerited favors in the year past, yet he has frowned upon us, in taking away several useful and valuable men; and by grievous and distressing sickness in some of our towns; our especially considering our sins against God, Contempt of the grace of the gospel, neglect of family prayer, and of public worship, profanation and abuse of the Sabbath, and the increase of vice, irreligion and impiety amongst us. I have therefore thought fit, by and with the advice of the Council, to appoint and do hereby appoint Wednesday the Thirteenth Day of April next, to be observed as a Day of Fasting and Prayer throughout this Colony, by people of all denominations; hereby exhorting both ministers and people, to humble themselves under the frowns and threatening's of God; to confess and mourn for our sins; our heinous ingratitude to the author of all good, for our mis improvement and abuse of his mercies; and for all the vices and impieties that are found amongst us; and fervently to beg that the divine grace and spirit may awaken us all to a true and sincere Repentance, and thorough Reformation.³²

In pursuance of this idea, and in conformity to the ancient and very laudable practice of this state, I have thought proper, with advice of council, to appoint, and do hereby appoint, Friday the sixth day of April next, to be set apart, and observed as a day of solemn fasting, humiliation and prayer, hereby earnestly calling on ministers and people of all denominations not only in their public and solemn assemblies, but in their private retirements on that day, to commune with their own hearts, to consider the errors of their ways; to humble themselves before God, for their many and provoking sins, of which they have been guilty; and to form with themselves sincere

#8
HB 1097
1/9/19

resolutions, by the aids of divine grace, to amend their ways and to turn to God, in the spirit of divine love and new obedience; in humble hope, that God may pardon their sins, and heal their iniquities, that they may live before Him. At the same time, to consider and lament the many heinous vices which are prevalent in our land at this day; particularly the increase of infidelity and profaneness; the neglect of the gospel of our great redeemer; the growing indifference of the institution of the Sabbath, and public divine worship; with the increasing neglect of gospel ordinances and benefits, and our aggravated ingratitude to God, and unfruitfulness towards Him, under the receipt of all the rich mercies, both of providence and grace, with which He has been pleased to indulge us.³³

Under the same gracious and benign influence, we may be led to lament the peculiar sins and follies of the present day, our increasing departure from the religion, the love, and acknowledgment of the God of our fathers; our impiety, profaneness, infidelity, and neglect of the gospel of grace, and its divine ordinances and institutions to consider and reflect upon the awful consequences of our inattention to the duties, the privileges and benefits of the Sabbath, with the prevailing influence of this neglect upon the morals, the virtue, and manners of the people at large; and more especially upon the views, the hopes and expectations of the rising generation; to lament the growing dispositions to divisions and opposition of sentiments, to party disputes and animosities, which tend to weaken and destroy the spirit of love, harmony, and social benevolence, which ought to be our practice and delight; and the influences of which are so conducive to our general and individual happiness.³⁴

With these ideas on my mind, and earnestly hoping that like impressions may possess the minds of the people of the state; I have thought proper to appoint, and I do hereby appoint Friday the fourth day of April next, to be observed throughout this state, as a day of fasting and humiliation, of devout prayer and supplication, and of solemn praise to almighty God, hereby calling upon, and earnestly entreating both ministers and people of all denominations, in their private retirements and public assemblies, most seriously and devoutly to attend to the important duties of the day; that they may humble themselves before God for their past sins and follies, entreat the divine forgiveness and mercy, with the gracious influences of the Holy Spirit to guide their future lives; and, while performing these duties of repentance and prayer, that they solemnly praise and adore the goodness of their God, for all His past benefits conferred on them, in humble hope of a gracious continuance of His loving kindness and tender mercy. At the same time, while humbling themselves for private and individual sins ingratitude, may, the people consider and lament the national sins and crimes against the divine law and goodness, which prevail at this day, particularly our infidelity and abounding neglect of the gospel of our Lord and savior Jesus Christ, our disregard to the genuine principles and benevolent practices of our holy religion, our indifference to the Sabbath and holy ordinances, our forgetfulness of a divine providence, ruling over the affairs of men, and our general ingratitude to God, for the abundant goodness and protection, with which He has favored the people of our nation and land, above all surrounding nations.³⁵

It being the indispensable duty of a people to acknowledge their constant dependence upon the supreme governor of the universe, at their creator, preserver, and the author of all their mercies, and considering the prevalence of vice and immorality, the profanation of the Sabbath, neglect of the public worship, and many other instances, wherein iniquity appears to abound which give us

#8
HB 1091
1/9/19

just reason to fear the divine displeasure, and punishment for our multiplied and aggravated transgressions, unless by speedy repentance and reformation, we suitably implore the mercy and forgiveness of almighty God for all our offenses.³⁶

Samuel Ward

We all ought to have in the Wisdom & Goodness of God will support us under it; Yesterday completed half a Century with Me & I may yet say few & evil have been my Days, if my great Master hath any further Business for me to do he will certainly continue Me here & I hope enable Me to see and do it. When he has no farther Service for Me I hope I shall cheerfully retire & you as cheerfully resign Me & happily experience the Truth of that gracious Promise "when my Father & Mother forsake Me the Lord will take Me up." It is not in my Power to observe the Sabbath as I could wish but hope all of You will be careful of your Duty to God & your Father in that Respect.³⁷

Paine Wingate

I was last Saturday at the Jewish Synagogue which was their Sabbath day. The service was all performed in hebrew, was very long, and chiefly read in a sort of singing voice. Only the men were allowed to be in the lower part of the house & the women sat in the gallery & went up, into it on the outside of the house. They were dressed very fashionably. I have likewise been at the Romish Church & to a German Church where I could not understand a word that was said. I have indeed been to most of the places of worship in the city in order to see their different customs. I believe I shall not think fit to change my religion for any of them.³⁸

John Witherspoon

If then many decent and regular persons are nevertheless under the wrath of God, what terror should this give to the more openly profane who are living in stances of gross wickedness! How many are there to be found among us, may, how many appear from Sabbath to Sabbath in our worshipping assemblies, who live in the habitual practice of some of the most notorious crimes! How many, who live in a bold defiance of the truths and laws of our great Master! Who are not only stained with original pollution, but laboring under a daily increasing load of actual guilt! Are there not some swearers and blasphemers of the great and dreadful name of God? Some despisers and profaners of His holy day? Dare any such entertain a doubt of a judgment to come? Can any mortal be insensible of the precariousness of time? The king of terrors lays his hand upon one after another, as he received a commission from the King of kings; and it is distressing to think in what an unprepared state many receive the summons, which nevertheless they must of necessity obey.³⁹

It is also to be observed that the duties of the moral law are perpetually binding; and therefore, when in Providence any example of them occurs, strengthened with the urgent call of necessity and mercy, they become exceptions to an ordinance of a positive nature. Thus our Savior does not contradict the law of Moses in what he teaches concerning the Sabbath; but shews in what manner that command was, or ought always to have been understood by the Jews themselves. See an instance of this, Luke xii.14.15.16. "And the ruler of the synagogue answered with indignation, because that Jesus had healed on the Sabbath day and said unto the people, There are six days in which men ought to work; in them, therefore, come and be healed, and not on the Sabbath day. The Lord then answered him and said, Thou hypocrite, doth not each one of you on

H8
HB1097
1/9/19

the Sabbath day loose his ox or his ass from the stall and lead him away to watering? And ought not this woman, being a daughter of Abraham, whom Satan hath bound, lo, these eighteen years, be loosed from this bond on the Sabbath day?" See also two other examples of the same thing, in the 12th chapter of the Gospel according to Matthew; in support of which our Lord cites a passage from the Old Testament, ver. 7. "But if ye had known what this meaneth, I will have mercy and not sacrifice, ye would not have condemned the guiltless.

This same general rule is to be observed at all times.⁴⁰

If any man, from this passage of Scripture [Leviticus 17:8-9], shall take liberty to despise the Sabbath, to forbear prayer in secret and in family, to neglect the sacraments or instituted worship of God, he perverteth and wresteth the Scriptures to his own destruction.⁴¹

Obedience is preferred to sacrifices, as they were un-commanded, free, and voluntary. If we attend to the sacrifices under the law, we shall find them of different kinds; particularly, we shall find them distinguished in this respect, that some of them were expressly and positively ordained, and others were left to the good will or spontaneous inclination of the offeror. The first were binding upon the whole of that people in the strongest manner, and could not be dispensed with; the other were left to themselves, as the occasion should point out the propriety and the piety or gratitude of their hearts should dispose of the performance. It would be a great mistake to suppose that the appointed service of the sanctuary might be omitted or altered by any human prudence, or dispensed with, even under pretense of obedience to the moral law. The observation of the Sabbath, or circumcision, of the Passover, the daily burnt-offering, the annual sacrifice on the great day of expiation, the trespass offering, and many others, were so indispensably necessary that no opposition was to be presume or imaged between them and the moral law. Nay, the whole circumstances of these rites were precisely specified and those who varied anything in the manner of their observation were to be cut off from their people. For these see Exodus xii. 19; xxxi. 14 and many other passages.⁴²

I must also here take particular notice of the duty of Sabbath sanctification. I do hereby warn you against that most pernicious refinement of gadding abroad, paying private visits upon the Lord's day. Whoever knows anything of the obligation of family government and instruction, must be sensible, that to receive promiscuous company on that day, is to render it utterly impracticable. Besides, the vain and unprofitable, and sometime sinful conversation that prevails in such cases, must greatly weaken or entirely obliterate any serious impressions made upon your mind, during the service of the sanctuary.⁴³

Many who no hear me are witnesses that it has never been my practice, for reasons which appear to me to be good, to intermix politics with the ordinary service of the sanctuary, on the weekly returns of the Christian Sabbath, further than fervent supplications to the throne of grace for Divine direction the public counsels and assistance to those are employed in public service. But on days of this kind, it becomes part of a minister's duty to direct the attention of the hearers to events of a public nature. This, you know, I did with great concern, and at considerable length, six years ago on a public fast day. I would therefore willingly, in this more advanced period, take a view of what is past and endeavor to direct you in what remains of your duty to God, to your country, and to yourselves.⁴⁴

#8
HB 1097
1/9/19

George Washington

All Chaplains are to perform divine service tomorrow, and on every succeeding Sunday, with their respective brigades and regiments, where the situation will possibly admit of it. And the commanding officers of corps are to see that they attend; themselves, with officers of all ranks, setting the example. The Commander in Chief expects an exact compliance with this order, and that it be observed in future as an invariable rule of practice--And every neglect will be considered not only a breach of orders, but a disregard to decency, virtue and religion.⁴⁵

The situation of the army, frequently not admitting, of the regular performance of divine service, on Sundays, the Chaplains of the army are forthwith to meet together, and agree on some method of performing it, at other times, which method they will make known to the Commander in Chief.⁴⁶

The Commander in Chief directs that divine Service be performed every Sunday at 11 o'clock in those Brigades to which there are Chaplains; those which have none to attend the places of worship nearest to them. It is expected that Officers of all Ranks will by their attendance set an Example to their men.⁴⁷

The New building being so far finished as to admit the troops to attend public worship therein after tomorrow, it is directed that divine Service should be performed there every Sunday by the several Chaplains of the New Windsor Cantonment, in rotation and in order that the different brigades may have an opportunity of attending at different hours in the same day (when ever the weather and other circumstances will permit which the Brigadiers and Commandants of brigades must determine) the General recommends that the Chaplains should in the first place consult the Commanding officers of their Brigades to know what hour will be most convenient and agreeable for attendance that they will then settle the duty among themselves and report the result to the Brigadiers and Commandants of Brigades who are desired to give notice in their orders and to afford every aid and assistance in their power for the promotion of that public Homage and adoration which are due to the supreme being, who has through his infinite goodness brought our public Calamities and dangers (in all humane probability) very near to a happy conclusion.

The General has been surprised to find in Winter Qrs. that the Chaplains have frequently been almost all absent, at the same time, under an idea their presence could not be of any utility at that season; he thinks it is proper, he should be allowed to judge of that matter himself, and therefore in future no furloughs will be granted to Chaplains except in consequence of permission from Headquarters, and any who may be now absent without such permission are to be ordered by the Commanding officers of their Brigades to join immediately, after which not more than one third of the whole number will be indulged with leave of absence at a time. They are requested to agree among themselves upon the time and length of their furloughs before any application shall be made to Headquarters on the subject.⁴⁸

In justice to the zeal and ability of the Chaplains, as well as to his own feelings, the Commander in chief thinks it a duty to declare the regularity and decorum with which divine service is now performed every Sunday, will reflect great credit on the army in general, tend to improve the morals, and at the same time, to increase the happiness of the soldiery, and must afford the most pure and rational entertainment for every serious and well-disposed mind.

48
HB1097
1/9/19

No fatigue except on extra occasions, nor General review or inspections to be permitted on the Sabbath day.⁴⁹

After the French war, while in retirement at Mount Vernon, he took a lively interest in church affairs, regularly attending public worship and begin at different times a vestryman in two parishes. The House of Burgesses, of which he was a member, passed an order (May 24th, 177) in reference to the act of Parliament for shutting up the port of Boston, that "the 1st day of June should be set apparat as a day of fasting, humiliation, and prayer, devoutly to implore the divine interposition for averting the heavy calamity, which threatened destruction to their civil rights, and the evils of civil war." On the day appointed, he writes in his diary: "Went to church and fasted all day," thus confirming not only to the spirit, but to the strict letter of the order. This diary was kept for many years with much particularity. A Sabbath day rarely occurs, in which it is not recorded that he went to church. If there was an omission, it was caused by the weather, or badness of the roads; the nearest church, as stated above, being seven miles from his residence. While attending the first Congress, he adhered to the same practice.⁵⁰

Sample of Diary Entries Mention Attending Church:

Sunday, 2nd

.... Went with Fanny Bassett, Burwell Bassett, Doctr. [David] Stuart, G[eorge] A[ugustine] Washington, Mr. [William] Shaw & Nelly Custis to Pohick Church; to hear a Mr. Thompson preach, who returned home with us to dinner where I found the Red. Mr. Jones, formerly a chaplain in one of the Pennsylvania Regiments.⁵¹

Sunday, 18th

Went in the forenoon to the Episcopal Church, and in the afternoon to one of the Congregational Meeting Houses. Attended to the first by the Speaker of the Assembly, Mr. Edwards and a Mr. Ingersoll, and to the latter by the Governor, the Lieut. Governor, the Mayor, and Speaker.⁵²

Sunday, 25th

Attended Divine Service at the Episcopal Church, whereof Doctor Parker is the incumbent in the forenoon, and the Congregational Church of Mr. Thatcher in the afternoon. Dined at my lodgings with the Vice-President. Mr. Bowdoin accompanied me to both churches.⁵³

Sunday, 4th

Went to Trinity Church in the forenoon.

This day being the anniversary of the declaration of the Independency the celebration of it was put off until tomorrow.⁵⁴

¹ Letter from John Adams to Abigail Adams on July 30, 1775.

² Letter from John Adams to Abigail Adams on July 7, 1775.

³ Letter to Benjamin Rush on August 28, 1811.

⁴ Letter to B. Stoddert (Sec. of the Navy) on May 8, 1799.

⁵ A Proclamation by the General Court of Massachusetts Bay, September 1775.

#8
HB 1097
1/8/19

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- ⁶ Letter to Samuel Phillips Savage on August 11, 1778 (online: <https://babel.hathitrust.org/cgi/pt?id=cool.ark:/13960/t21c2k965;view=1up;seq=75>).
- ⁷ Letter to Mrs. Boudinot on March 15, 1778 (online: <https://babel.hathitrust.org/cgi/pt?id=cool.ark:/13960/t8kd2gs46;view=1up;seq=139>).
- ⁸ *The Life of Charles Carroll of Carrollton* (New York: G. P. Putnam's Sons, 1898), p. 188 (online: <https://archive.org/details/lifecharlescarr02rowlgoog/page/n224>).
- ⁹ John Dickinson, A Proclamation for the Sabbath Day, issued November 20, 1782 (online: <https://wallbuilders.com/proclamation-sabbath-day-1782-pennsylvania/>)
- ¹⁰ Letter from Eliphalet Dyer to Roger Sherman on June 18, 1782; found in *The Letters of Delegates to Congress*, Vol. 18, p. 586.
- ¹¹ Letter signed by "Homespun" printed in *The Gazette and New Daily Advertiser* on January 15, 1766; published in *The Papers of Benjamin Franklin*.
- ¹² Letter from Benjamin Franklin to Lord Kames on February 21, 1769.
- ¹³ Letter from Benjamin Franklin to Samuel Cooper on January 13, 1772.
- ¹⁴ Benjamin Franklin's Autobiography, Part 4.
- ¹⁵ Benjamin Franklin's Autobiography, Part 8.
- ¹⁶ John Hancock's Inaugural Address as Governor of Massachusetts, 1780 (online: <https://babel.hathitrust.org/cgi/pt?id=mdp.39015003484261;view=1up;seq=309>).
- ¹⁷ Letter signed "Titus Manlius," printed in the *New York Commercial Advertiser*, April 7, 1798.
- ¹⁸ Diary of Samuel Holten, July 4-5, 1779; found in *The Letters of Delegates to Congress*, Vol. 13, p. 145.
- ¹⁹ Letter from Samuel Holten to George Partridge on June 21, 1780; found in *The Letters of Delegates to Congress*, Vol. 15, p. 356.
- ²⁰ A Proclamation for a Day of Fasting, Prayer, and Humiliation, issued March 21, 1788.
- ²¹ Letter from John Jay to Robert R. Livingston on March 4, 1776.
- ²² Letter from John Jay to John Murray, Jr. on April 15, 1818.
- ²³ Letter from John Jay to Edward Livingston on July 28, 1822.
- ²⁴ Letter from Thomas Jefferson to Arohibald Thweat on December 24, 1821.
- ²⁵ Letter from Thomas Jefferson to Thomas Mann Randolph on June 5, 1791.
- ²⁶ Letter from Thomas Jefferson to Dr. Thomas Cooper on November 2, 1822.
- ²⁷ *Memoirs and Letters of James Kent* (Boston: Little, Brown, and Company, 1898), pp. 276-277 (online: <https://babel.hathitrust.org/cgi/pt?id=cool.ark:/13960/t24b3n07d;view=1up;seq=298>).
- ²⁸ Letter from George Mason to Martin Cockburn on July 24, 1775 (online: <https://archive.org/details/lifegeorgemason02rowlgoog/page/n228>).
- ²⁹ Letter from Charles Pettit to James Hutchinson on August 9, 1786; found in *The Letters of Delegates to Congress*, Vol. 23, p. 444.
- ³⁰ Benjamin Rush, "Address to the Ministers of the Gospel of Every Denomination in the United States, Upon Subjects Interesting to Morals," June 21, 1788 (online: <https://archive.org/details/DKC0021/page/n123>).
- ³¹ Letter from Joseph Story to his wife on February 14, 1820 (online: <https://babel.hathitrust.org/cgi/pt?id=hvd.32044013684204;view=1up;seq=403>).
- ³² A Proclamation for a Day of Fasting and Prayer, issued March 9, 1774.
- ³³ A Proclamation for a Day of Fasting, Humiliation, and Prayer, issued March 1, 1798.
- ³⁴ A Proclamation for a Day of Fasting and Prayer, issued March 3, 1801.
- ³⁵ A Proclamation for a Day of Fasting and Humiliation, issued March 1, 1806.
- ³⁶ A Proclamation for a Day of Fasting and Prayer, issued March 23, 1807.
- ³⁷ Letter from Samuel Ward to His Children on June 8, 1775; found in *The Letters of Delegates to Congress*, Vol. 1, p. 462.
- ³⁸ Letter from Paine Wingate to Mar Wingate Wiggin on June 9, 1788; found in *The Letters of Delegates to Congress*, Vol. 25, p. 159.
- ³⁹ John Witherspoon, "A Practical Treatise on Regeneration," 1789 (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017242;view=1up;seq=143>).

#8
HB 1097
11/9/19

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- ⁴⁰ John Witherspoon, "Fervency and Importunity in Prayer. Second Sermon" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017267;view=1up;seq=323>).
- ⁴¹ John Witherspoon, "Fervency and Importunity in Prayer. Second Sermon" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017267;view=1up;seq=314>).
- ⁴² John Witherspoon, "Fervency and Importunity in Prayer. Second Sermon" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017267;view=1up;seq=312>).
- ⁴³ John Witherspoon, "Ministerial Fidelity in Declaring the Whole Counsel of God" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017259;view=1up;seq=319>).
- ⁴⁴ John Witherspoon, "Sermon Delivered at a Public Thanksgiving After Peace" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101067017283;view=1up;seq=242>).
- ⁴⁵ General Orders, June 28, 1777.
- ⁴⁶ General Orders, October 7, 1777.
- ⁴⁷ General Orders, May 2, 1778.
- ⁴⁸ General Orders, February 15, 1783.
- ⁴⁹ General Orders, March 22, 1783.
- ⁵⁰ "Religious Opinions and Habits of Washington" (online: <https://babel.hathitrust.org/cgi/pt?id=njp.32101072313180;view=1up;seq=416>).
- ⁵¹ George Washington's Diary Entry for October 2, 1785 (online: <https://babel.hathitrust.org/cgi/pt?id=loc.ark:/13960/t8ff4658m;view=1up;seq=13>).
- ⁵² George Washington's Diary Entry for October 18, 1789 (online: <https://babel.hathitrust.org/cgi/pt?id=nyp.33433082383534;view=1up;seq=32>).
- ⁵³ George Washington's Diary Entry for October 25, 1789 (online: <https://babel.hathitrust.org/cgi/pt?id=nyp.33433082383534;view=1up;seq=42>).
- ⁵⁴ George Washington's Diary Entry for July 4, 1790 (online: <https://babel.hathitrust.org/cgi/pt?id=nyp.33433082383534;view=1up;seq=152>).

#8
HB/097
1/8/19

REASONS "AGAINST" REPEALING SUNDAY CLOSING LAWS AND "FOR" WORKER'S FREEDOM TO WORSHIP

- [1] Whereas the Supreme court has ruled 4 times, the constitutionality of guaranteeing the right of workers to worship and cease from labor . FROM WIKIPEDIA – “Blue Laws in the United States” - *In the United States, the U.S. Supreme Court has held blue laws as constitutional numerous times, citing secular bases such as securing a day of rest for mail carriers, as well as protecting workers and families, in turn contributing to societal stability and guaranteeing the free exercise of religion.*
- [] Whereas almost all worship opportunities are on Sundays.
- [] Whereas the state's role is not to establish a church. But our founders knew that its purpose was to make room, to protect and to promote its moral impact on self-governance.
- [] Whereas In order for our founders to establish a free nation, they needed to, not establish a church, but to make space for the people to be free to exercise their religion. The government does not establish religion, it ensures the right and freedom to have it.
- [2] Whereas a 2008 study by Notre Dame and MIT found a significant decrease in church attendance and offerings in states where these long term laws were repealed.
- [] Whereas employers desire quality workers, good work ethic, reliable, honest, etc. These things, the church produces.
- [] Whereas ND communities have more and more large, non-locally owned businesses, this has led to less and less concern for the family while hindering the employees right to worship.
- [] Whereas, consumers possess the same amount of money be it 6 or 7 days
- [3] Whereas our preamble to the constitution reveals a humble view toward “Almighty God”
- [] Whereas the Sunday closing laws do not force anyone to worship, attend church, or practice religion
- [] Whereas this guarantee of freedom is not a practice of a religion, any more than the 7 day week. Our year comes from the sun, our month from the moon, our day from the earth; BUT the 7 day week has one source alone: the Bible. Similarly, the 7 day week as not a “practice of religion”
- [4] Whereas current Sunday Closing laws have allowed North Dakota remain as a unique leader state. This aligns us with best practices for successful self-governance
- [] Whereas once we take away this right, we may never get it back
- [] Whereas there are many ND citizens who want this freedom secured by those of us who represent them.
- Whereas a strong, free market economy DEPENDS on a virtuous, moral, religious people. So, what happens when you hinder or compete with church attendance? Less virtue, morality, and religion. People stop taking care of themselves. This is a long term way of running out of government money. When a social fabric collapses, a free market is NOT enough to save our state. Next would be blow out spending, then excessive taxation which would never catch up. This is how you destroy an economy. Lowering church attendance would be a start.
- [] Whereas "God ceased from His labor"

Be it resolved that Sunday closing laws remain

Be it resolved that a workers right to worship shall not be infringed upon

#8
HB 1097
1/9/19

RESOURCES:

1 QUOTE SUPREME COURT from Wikipedia "Blue Law" scroll down to United States (then COURT CASES)

The Supreme Court of the United States held in its landmark case, McGowan v. Maryland (1961), that Maryland's blue laws violated neither the Free Exercise Clause nor the Establishment Clause of the First Amendment to the United States Constitution. It approved the state's blue law restricting commercial activities on Sunday, noting that while such laws originated to encourage attendance at Christian churches, the contemporary Maryland laws were intended to serve "to provide a uniform day of rest for all citizens" on a secular basis and to promote the secular values of "health, safety, recreation, and general well-being" through a common day of rest. That this day coincides with Christian Sabbath is not a bar to the state's secular goals; it neither reduces its effectiveness for secular purposes nor prevents adherents of other religions from observing their own holy days.^[28]

There were four landmark Sunday-law cases altogether in 1961. The other three were Gallagher v. Crown Kosher Super Market of Mass., Inc., 366 U.S. 617 (1961); Braunfeld v. Brown, 366 U.S. 599 (1961); Two Guys from Harrison vs. McGinley, 366 U.S. 582 (1961).^[29] Chief Justice Earl Warren declared that "the State seeks to set one day apart from all others as a day of rest, repose, recreation and tranquility--a day which all members of the family and community have the opportunity to spend and enjoy together, a day on which there exists relative quiet and disassociation from the everyday intensity of commercial activities, a day on which people may visit friends and relatives who are not available during working days."^[30] In March 2006, Texas judges upheld the state blue law

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Also from Wikipedia "Blue Laws"

United States[edit]

Main article: [Blue laws in the United States](#)

In the United States, judges have defended blue laws "in terms of their secular benefit to workers", holding that "the laws were essential to social well-being".^[31] Chief Justice Stephen Johnson Field, with regard to Sunday blue laws, stated:^[32]

Its requirement is a cessation from labor. In its enactment, the legislature has given the sanction of law to a rule of conduct, which the entire civilized world recognizes as essential to the physical and moral well-being of society. Upon no subject is there such a concurrence of opinion, among philosophers, moralists and statesmen of all nations, as on the necessity of periodical cessation from labor. One day in seven is the rule, founded in experience and sustained by science. ... The prohibition of secular business on Sunday is advocated on the ground that by it the general welfare is advanced, labor protected, and the moral and physical well-being of society promoted.

— *Hennington v. Georgia*, 163 U.S. 299 [1896]^[33]

2 QUOTE NOTRE DAME / MIT STUDY]

#8
HB 1097
1/9/19

In their study, which appears in the May 2008 edition of The Quarterly Journal of Economics, Gruber and Hungerman show what happens when religious services must compete with shopping, hobbies and other activities.

To measure that competition, they studied the large number of states that repealed their blue laws over the past 50 years. (Massachusetts, for example, repealed its blue laws in 1994.)

"That policy-driven change in state laws allowed us to identify secular competition, as opposed to interreligious competition, which had been studied before," Gruber says. "We wanted to find out how people spent their time and money."

The economists used data from the General Social Survey on religious attendance and from the Consumer Expenditure Survey to show a very strong reduction in religious attendance and a decline in religious contributions once the blue laws were repealed. They found no change in other charitable activity, Gruber notes.

To confirm their findings and to complete the economic portrait, the authors also analyzed budget data for four major Christian denominations over the past 40 years. Church expenditures declined significantly since the repeal of the blue laws, they found.

ABSTRACT FROM JOURNAL OF ECONOMICS, Gruber And Hungerman – The Church Versus the Mall: What Happens When Religion Faces Increased Secular Competition?

Jonathan Gruber Daniel M. Hungerman *The Quarterly Journal of Economics*, Volume 123, Issue 2, 1 May 2008, Pages 831–862,

<https://doi.org/10.1162/qjec.2008.123.2.831> Published: 01 May 2008

Abstract

Recently economists have begun to consider the causes and consequences of religious participation. An unanswered question in this literature is the effect upon individuals of changes in the opportunity cost of religious participation. In this paper we identify a policy-driven change in the opportunity cost of religious participation based on state laws that prohibit retail activity on Sunday, known as "blue laws." Many states have repealed these laws in recent years, raising the opportunity cost of religious participation. We use a variety of data sets to show that when a state repeals its blue laws religious attendance falls and that church donations and spending fall as well. These results do not seem to be driven by declines in religiosity prior to the law change, nor do we see comparable declines in membership in or giving to nonreligious organizations after a state repeals its laws. We then assess the effects of changes in these laws on drinking and drug use behavior in the NLSY. We find that repealing blue laws leads to an increase in drinking and drug use and that this increase is found only among the initially religious individuals who were affected by the blue laws. The effect is economically significant; for example, the gap in heavy drinking between religious and nonreligious individuals falls by about half after the laws are repealed.

#8
HB 1097
1/9/19

3 QUOTE PREAMBLE to ND CONSTITUTION

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.^[2]

3 QUOTE 1ST AMENDMENT

"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."

4 QUOTE ND PREAMBLE QUOTE JOHN ADAMS

Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.

<https://www.youtube.com/watch?v=o8ZxBQWZ5vg> - 7:00 to 10:00

- Ben Shapiro – “ free market economy DEPENDS on a virtuous, moral, religious people. So, what happens when you hinder or compete with church attendance? Less virtue, morality, and religion. People stop taking care of themselves. This is a long term way of running out of government money. When a social fabric collapses, a free market is NOT enough to save our state. Next would be blow out spending, then excessive taxation which would never catch up. This is how you destroy an economy. ”

Origins of Blue Laws

It has often been said that if you want to know where a law is going, then you should look at where it has come from. In America, the earliest Sunday-closing laws date back to 1610 in the colony of Virginia. They included not simply the mandatory closing of businesses on Sundays, but also mandatory church service participation. Considering the comments made by some religious leaders today when they complain about the competition they have on Sundays, I have to wonder if they wouldn't approve of such steps again.

In the New Haven colony, the list of activities prohibited on Sundays was supposedly written on blue paper, thus giving us the notorious phrase "blue laws." The process of the American Revolution and the crafting of our Constitution tended over time to disestablish churches throughout the new states, thus also eliminating "blue laws" (this will come as a shock to those who advocate the myth that America was founded as a "Christian Nation").

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ADDITIONAL HELPS

48
HB 1097
1/9/19

1. QUOTE FROM SUPREME COURT CASE. 1961. McGowan VS Maryland - **NEXT 5 PAGES OF 49**
2. Interesting is bracketed in RED and key points are GREEN (colors edited by Jeff Hoverson)

<https://caselaw.findlaw.com/us-supreme-court/366/420.html>

United States Supreme Court
McGOWAN v. MARYLAND, (1961)
No. 82

Argued: December 8, 1960 Decided: May 29, 1961

However, the State's purpose is not merely to provide a one-day-in-seven work stoppage. In addition to this, the State seeks to set one day apart from all others as a day of rest, repose, recreation and tranquility - a day which all members of the family and community have the opportunity to spend and enjoy together, a day on which there exists relative quiet and disassociation from the everyday intensity of commercial activities, a day on which people may visit friends and relatives who are not available during working days. 21 [366 U.S. 420, 451]

And the Maryland court declared in its decision in the instant case: "The legislative plan is plain. It is to compel a day of rest from work, permitting only activities which are necessary or recreational." McGowan v. State, *supra*, at p. 123, 151 A. 2d, at 159. After engaging in the close scrutiny demanded of us when First Amendment liberties are at issue, we accept the State Supreme Court's determination that the statutes' present purpose and effect is not to aid religion but to set aside a day of rest and recreation.

Moreover, it is common knowledge that the first day of the week has come to have special significance as a rest day in this country. People of all religions and [366 U.S. 420, 452] people with no religion regard Sunday as a time for family activity, for visiting friends and relatives, for late sleeping, for passive and active entertainments, for dining out, and the like. "Vast masses of our people, in fact, literally millions, go out into the countryside on fine Sunday afternoons in the Summer. . ." 308 Parliamentary Debates, Commons 2159. Sunday is a day apart from all others. 22 The cause is irrelevant; the fact exists. It would seem unrealistic for enforcement purposes and perhaps detrimental to the general welfare to require a State to choose a common day of rest other than that which most persons would select of their own accord. For these reasons,

we hold that the Maryland statutes are not laws respecting an establishment of religion.

Also

In the present cases the Sunday retail sellers and their employees and customers, in attacking statutes banning various activities on a day which most Christian creeds consecrate, do assert that these statutes have no other purpose. They urge, first, that the legislators' motives [366 U.S. 420, 469] were religious. But the private and unformulated influences which may work upon legislation are not open to judicial probing. "The decisions of this court from the beginning lend no support whatever to the assumption that the judiciary may restrain the exercise of lawful power on the assumption that a wrongful purpose or motive has caused the power to be exerted." McCray v. United States, 195 U.S. 27, 56. "Inquiry into the hidden motives which may move [a legislature] to exercise a power constitutionally conferred upon it is beyond the competency of courts." Sonzinsky v. United States, 300 U.S. 506, 513 -514. Veazie Bank v. Fenno, 8 Wall. 533; Arizona v. California, 283 U.S. 423; Oklahoma ex rel. Phillips v. Guy F. Atkinson Co., 313 U.S. 508. These litigants also argue, however, that when the state statutory provisions are regarded in their legislative context religion is apparent on their face: they point to the use of the terms "Lord's day" and "Sabbath" and "desecration," to exceptions whose hours permit activities only at times on Sunday when religious services are customarily not held, to explicit prohibition of otherwise permitted activity in the vicinity of churches, to regulations which condition the allowance of conduct on its consistency with the "due observance" of the day. Of course, since these various provisions regarding exemption from the Sunday ban of certain recreational activities have no possible application to the litigants in the present cases, they are not themselves

before the Court, and their constitutionality is not now in issue. But they are put forward as evidence of the purpose of the statutes which are attacked here, and as such we may properly look to them, and also to the history of the body of state Sunday regulations, which, it is urged, further demonstrates sectarian creedal purpose. As a basis for appraising these arguments that the statutes are religious legislation, and preliminary [366 U.S. 420, 470] to determining the claims of infringement of conscience raised in the Gallagher and Braunfeld cases, it is necessary to survey the long historical development and present-day position of civil Sunday regulation.

Very interesting history

Within the discriminating phraseology of the First Amendment, distinction has been drawn between cases raising "**establishment**" and "**free exercise**" questions. Any attempt to formulate a bright-line distinction is bound to founder. In view of the competition among religious creeds, whatever "establishes" one sect disadvantages another, and vice versa. But it is possible historically, and therefore helpful analytically - no less for problems arising under the Fourteenth Amendment, illuminated as that Amendment is by our national experience, than for problems arising under the First - to isolate in general terms the two largely overlapping areas of concern reflected in the two constitutional phrases, "establishment" and "free exercise," 1 and which emerge more [366 U.S. 420, 464] or less clearly from the background of events and impulses which gave those phrases birth.

In assuring the free exercise of religion, the Framers of the First Amendment were sensitive to the then recent history of those persecutions and impositions of civil disability with which sectarian majorities in virtually all of the Colonies had visited deviation in the matter of conscience. 2 This protection of unpopular creeds, however, was not to be the full extent of the Amendment's guarantee of freedom from governmental intrusion in matters of faith. The battle in Virginia, hardly four years won, where James Madison had led the forces of disestablishment in successful opposition to Patrick Henry's proposed Assessment Bill levying a general tax for the support of Christian teachers, 3 was a vital and compelling [366 U.S. 420, 465] memory in 1789. The lesson of that battle, in the words of Jefferson's Act for Establishing Religious Freedom, whose passage was its verbal embodiment, 4 was "that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporal rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind . . ." 5 What Virginia had long practiced, and what Madison, Jefferson and others fought to end, was the extension of civil government's support to religion in a manner which made the two in some degree interdependent, and thus threatened the freedom of each. **The purpose of the Establishment Clause was to assure that the national legislature would not exert its power in the service of any purely religious end; that it would not, as Virginia and virtually all of the Colonies had done, make of religion, as religion, an object of legislation.**

Of course, the immediate object of the First Amendment's prohibition was the established church as it had been known in England and in most of the Colonies. But with foresight those who drafted and adopted the words, "Congress shall make no law respecting an establishment of religion," did not limit the constitutional proscription to any particular, dated form of state-supported theological venture. The Establishment Clause withdrew from [366 U.S. 420, 466] the sphere of legitimate legislative concern and competence a specific, but comprehensive, area of human conduct: man's belief or disbelief in the verity of some transcendental idea and man's expression in action of that belief or disbelief. Congress may not make these matters, as such, the subject of legislation, nor, now, may any legislature in this country. Neither the National Government nor, under the Due Process Clause of the Fourteenth Amendment, a State may, by any device, support belief or the expression of belief for its own sake, whether from conviction of the truth of that belief, or from conviction that by the propagation of that belief the civil welfare of the State is served, or because a majority of its citizens, holding that belief, are offended when all do not hold it.

With regulations which have other objectives the Establishment Clause, and the fundamental separationist concept which it expresses, are not concerned. These regulations may fall afoul of the constitutional guarantee against infringement of the free exercise or observance or religion. Where they do, they must be set aside at the instance of those whose faith they prejudice. But once it is determined that a challenged statute is supportable as implementing other substantial interests than the promotion of belief, the guarantee prohibiting religious "establishment" is satisfied.

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II.

For these purposes the span of centuries which saw the enunciation of the Fourth Commandment, 7 Constantine's edict proscribing labor on the venerable day of the Sun, 8 and the Sunday prohibitions of Carlovingian, Merovingian and Saxon rulers, and later of the English kings of the thirteenth and fourteenth centuries, may be passed over. 9 What is of concern here is the Sunday institution as it evolved in modern England, the American Colonies, and the States of the Union under the Constitution. The first significant English Sunday regulation, for this purpose, was the statute of Henry VI in 1448 which, after reciting "the abominable injuries and offenses done to Almighty God, and to his Saints, . . . because of fairs and markets upon their high and principal feasts, . . . in which principal and festival days, for great earthly covetise, the people is more willingly vexed, and in bodily labour soiled, than in other . . . days, . . . as though they did nothing remember the horrible defiling of their souls in buying and selling, with many deceitful lies and false perjury, with drunkenness and strifes, and so specially [366 U.S. 420, 471] withdrawing themselves and their servants from divine service . . .," ordained that all fairs and markets should cease to show forth goods or merchandise on Sundays, Good Friday, and the principal feast days. 10 A short-lived ordinance of Edward VI a century later, limiting the ban on bodily labor to Sundays and enumerated holy days, demonstrated in its preamble a similar sectarian purpose, 11 and in 1625 Charles I, announcing that "there is nothing more acceptable to God than the true and sincere service and worship of him . . . and that the holy keeping of the Lord's day is a principal part of the true service of God," prohibited all meetings of the people out of their parishes for sports and pastimes on Sunday, and all bear-baiting, bull-baiting, interludes, common plays, and other unlawful exercises and pastimes on that day. 12 Several years later the same king declared it reproachful of God and religion, and hence made it unlawful, [366 U.S. 420, 472] for butchers to slaughter or carriers, drovers, waggoners, etc., to travel on the Lord's day; 13 then, in 1677, 14 "For the better Observation and keeping Holy the Lord's Day," the statute, 29 Charles II, c. 7, which is still the basic Sunday law of Britain, was enacted: "that all and every Person and Persons whatsoever, shall on every Lord's Day apply themselves to the Observation of the same, by exercising themselves thereon in the Duties of Piety and true Religion, publickly and privately; . . . and that no Tradesman, Artificer, Workman, Labourer or other Person whatsoever, shall do or exercise any worldly Labour, Business or Work of their ordinary Callings, upon the Lord's Day, or any part thereof (Works of Necessity and Charity only excepted;) . . . and that no Person or Persons whatsoever, shall publickly cry, shew forth, or expose to Sale, any Wares, Merchandizes, Fruit, Herbs, Goods or Chattels whatsoever, upon the Lord's Day . . ." 15 In 1781, a [366 U.S. 420, 473] statute, 21 Geo. III, c. 49, reciting that various public entertainments and explications of scriptural texts by incompetent persons tended "to the great encouragement of irreligion and profaneness," closed all rooms and houses in which public entertainment, amusement or debates, for an admission charge, were held. 16

These Sunday laws were indisputably works of the English Establishment. Their prefatory language spoke their religious inspiration, 17 exceptions made from time to time were expressly limited to preserve inviolable the hours of the divine service, 18 and in their administration [366 U.S. 420, 474] a spirit of inquisitorial piety was evident. 19 But even in this period of religious predominance, notes of a secondary civil purpose could be heard. Apart from the counsel of those who had from the time of the Reformation insisted that the Fourth Commandment itself embodied a precept of social rather than sacramental significance, 20 claims [366 U.S. 420, 475] were asserted in the eighteenth century on behalf of Sunday rest, in part, in the service of health and welfare. 21 Blackstone wrote that ". . . besides the notorious indecency and scandal of permitting any secular business to be publicly transacted on that day in a country professing Christianity, and the corruption of morals which usually follows its profanation, the keeping one day in the seven holy, as a time of

relaxation and refreshment as well as for public worship, is of admirable service to a state, considered merely as a civil institution. It humanizes, by the help of conversation and society, the manners of the lower classes, which would otherwise degenerate into a sordid ferocity and savage selfishness of spirit; it enables the industrious workman to pursue his occupation in the ensuing week with health and cheerfulness; it imprints on the minds of the people that sense of their duty to God so necessary to make them good citizens, but which yet [366 U.S. 420, 476] would be worn out and defaced by an unremitting continuance of labor, without any stated times of recalling them to the worship of their Maker." ²² In 1788 the schedule to the act, 28 Geo. III, c. 48, obligated master chimney sweeps to have their apprentices washed at least once a week, providing that on Sunday the master should send the apprentice to worship, should allow him to have religious instruction, and should not allow him to wear his sweeping dress; the act also regulated the sweeps' hours of work. In 1832 a Commons Select Committee on the Observance of the Sabbath heard the testimony of a medical doctor as to the physically injurious effects of seven-day unremitting labor, ²³ and although the report of the Committee reveals a primarily religious cast of mind, it discloses also a sensitivity to the plight of the journey-man bakers, seven thousand of whom had petitioned the House for one day's repose weekly, and to the wishes of shopkeepers and tradesmen forced by competition to work on Sunday, although "most desirous of a day of rest." ²⁴ The Committee recommended the enactment of severer sanctions for Lord's day violations: "The objects to be attained by Legislation may be considered to be, first, a solemn and decent outward Observance of the Lord's-day, as that portion of the week which is set apart by Divine Command for Public Worship; and next, the securing to every member of the Community without any exception, and however low his station, the uninterrupted enjoyment of that Day of Rest which has been in Mercy provided for him, and the privilege of employing it, as well in [366 U.S. 420, 477] the sacred Exercises for which it was ordained, as in the bodily relaxation which is necessary for his well-being, and which, though a secondary end, is nevertheless also of high importance." ²⁵

But, whatever the nature of the propulsions underlying state-enforced Sunday labor stoppage during these centuries before the twentieth, it is clear that its effect was the creation of an institution of Sunday as a day apart. The origins of the institution were religious, certainly, but through long-established usage it had become a part of the life of the English people. ²⁶ It was a day of rest not merely in a physical, hygienic sense, but in the sense of a recurrent time in the cycle of human activity when the rhythms of existence changed, a day of particular associations which came to have their own autonomous value for life. ²⁷ When that value was threatened by the pressures of the Industrial Revolution, agitation began for new [366 U.S. 420, 478] legislative action to preserve the traditional English Sunday. ²⁸

What about legislating morality and "Separation" views of church and state

From the same case as above

It is a postulate of American life, reflected specifically in the First Amendment to the Constitution but not there alone, that those beliefs and institutions shall continue, as the needs and longings of the people shall inspire them, to exist, to function, to grow, to wither, and to exert with whatever innate strength they may contain their many influences upon men's conduct, free of the dictates and directions of the state. However, this freedom does not and cannot furnish the adherents of religious creeds entire insulation from every civic obligation. As the state's interest in the individual becomes more comprehensive, its concerns and the concerns of religion perforce overlap. State codes and the dictates of faith touch the same activities. [366 U.S. 420, 462] Both aim at human good, and in their respective views of what is good for man they may concur or they may conflict. No constitutional command which leaves religion free can avoid this quality of interplay.

Another member stated:

"As a family man let me say that my family life would be unduly disturbed if any member had his Sunday on a Tuesday. The value of a Sunday is that everybody in the family is at home on the same day. What is the use of talking about a six-day working week in which six members of a family would each have his day of rest on a different day of the week?" Id., at 2198.

From footnote 21

\ Everson v. Board of Education, *supra*, at pp. 14-15. It has found that the First and Fourteenth Amendments afford protection against religious establishment far more extensive than merely to forbid a national or state church. Thus, in McCollum v. Board of Education, 333 U.S. 203, the Court held that the action of a board of education, permitting religious instruction during school hours in public school buildings and requiring those children who chose not to attend to remain in their classrooms, to be contrary to the "Establishment" Clause.

#8 1/8/19
HB1097

However, it is equally true that the "Establishment" Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions. In many instances, the Congress or state legislatures conclude that the general welfare of society, wholly apart from any religious considerations, demands such regulation. Thus, for temporal purposes, murder is illegal. And the fact that this agrees with the dictates of the Judaeo-Christian religions while it may disagree with others does not invalidate the regulation. So too with the questions of adultery and polygamy. *Davis v. Beason*, 133 U.S. 333; *Reynolds v. United States*, *supra*. The same could be said of theft, fraud, etc., because those offenses were also proscribed in the Decalogue.

1st amendment associated:

In its report to the House, the committee, to which the subject of amendments to the Constitution had been submitted, recommended the insertion of the language, "no religion shall be established by law." I Annals of Congress 729. Mr. Gerry "said it would read better if it was, that no religious doctrine shall be established by law." Id., at 730. Mr. Madison "said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience. . . . He believed that the people feared one sect might obtain a pre-eminence, or two combine together, and establish a religion to which they would compel others to conform." Id., at 730-731.

The Amendment, as it passed the House of Representatives nine days later, read, in part:

"Congress shall make no law establishing religion. . . ." Records of the United States Senate, 1A-C2 (U.S. Nat. Archives). It passed the Senate on September 9, 1789, reading, in part:

"Congress shall make no law establishing articles of faith, or a mode of worship. . . ." Ibid.

===== [Footnote 11] It is argued that the wide acceptance of Sunday laws at the time of the adoption of the First Amendment makes it fair to assume that they were never thought to come within the "establishment" Clause, and that the presence in the country at that time of large numbers of Orthodox Jews makes it clear that those laws were not thought to run afoul of the "free exercise" Clause. *Those reasons would be compelling if the First Amendment had, at the time of its adoption, been applicable to the States. But since it was then applicable only to the Federal Government, it had no possible bearing on the Sunday laws of the States.* The Fourteenth Amendment, adopted years later, made the First Amendment applicable to the States for the first time. That Amendment has had unsettling effects on many customs and practices - a process consistent with Jefferson's precept "that laws and institutions must go hand in hand with the progress of the human mind." 15 The Writings of Thomas Jefferson (Memorial ed. 1904), p. 41.

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#9

HB1097

1/9/19

Blaine Mehlhoff

1716 East Omaha Drive

Bismarck, ND 58504

January 9, 2019

Good morning, Chairman Keiser and members of the committee.

The Sunday Closing law is a piece of out states foundation, but, when you hear about the Sunday Closing law you will always hear of how it is discriminative and what it prohibits.

I took the time to read the Sunday Closing law and found out differently. What I learned is that the Sunday Closing law protects and encourages freedom to the hardworking people of North Dakota. It gives people the freedom to have a few hours from a har working week to be able to relax and enjoy some time for themselves. The Sunday closing law was challenged in the ND Supreme Court on September 6, 1990 (Best Products Co. Inc. v Spaeth)

The ND Supreme Court stated that the purpose of the current law is to set aside a day of rest and recreation. In another paragraph, the Supreme Court said that the choice of Sunday as a day of rest does not constitute on establishment of religion.

In this particular case the Sunday Closing law was challenged in 10 different instances and in all the instances the Sunday Closing law was upheld. The Supreme Court concluded that there is no conflict between the Sunday Closing law and either the United States or the North Dakota constitutions.

I would also like to add that the people who dislike the Sunday Closing law tried to get signatures on a petition to put it on the ballot and were not able to get enough signatures to get it on the ballot. In my opinion, this shows that the majority of the people are for the Sunday Closing law.

In conclusion I strongly encourage you to support the Sunday Closing law and support the hardworking people of North Dakota. Please give a Do Not Pass recommendation on this bill.

H.B. 1097
3.7.2019
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CHAPTER 12.1-30 SUNDAY CLOSING LAW

12.1-30-01. Business or labor on Sunday - Exemptions - Classification of offenses.

1. Except as otherwise provided in sections 12.1-30-02 and 12.1-30-03, it is a class B misdemeanor for any person between the hours of twelve midnight and twelve noon on Sunday to do any of the following activities:
 - a. Engage in or conduct business or labor for profit in the usual manner and location.
 - b. Operate a place of business open to the public.
 - c. Authorize or direct that person's employees or agents to take action prohibited under this section.
2. The prohibition in subsection 1 does not apply to a person who in good faith observes a day other than Sunday as the Sabbath, if that person refrains from engaging in or conducting business or labor for profit and closes the place of business to the public between the hours of twelve midnight and twelve noon on the day observed as the Sabbath.
3. The attorney general, a state's attorney, a mayor, a city manager, or a city attorney may petition a district court, for the district where a violation is occurring, to enjoin a violation of this section.

12.1-30-02. Items prohibited from sale or rental on Sunday.

Except for items sold at hobby shows, craft shows, fairs, exhibits, occasional rummage sales including garage sales or other sales for which a sales tax permit is not required, and tourist attractions that derive at least fifty percent of their annual gross sales from seasonal or tourist customers, the sale or rental of any of the following items between the hours of twelve midnight and twelve noon on Sunday is prohibited:

1. Clothing other than work gloves and infant supplies.
2. Clothing accessories.
3. Wearing apparel other than that sold to a transient traveler under emergency conditions.
4. Footwear.
5. Headwear.
6. Home, business, office, or outdoor furniture.
7. Kitchenware.
8. Kitchen utensils.
9. China.
10. Home appliances.
11. Stoves.
12. Refrigerators.
13. Air-conditioners.
14. Electric fans.
15. Radios.
16. Television sets.
17. Washing machines.
18. Dryers.
19. Cameras.
20. Hardware other than emergency plumbing, heating, cooling, or electrical repair or replacement parts and equipment.
21. Tools other than manually driven hand tools.
22. Jewelry.
23. Precious or semiprecious stones.
24. Silverware.
25. Watches.
26. Clocks.
27. Luggage.

J.B.1097

3.1.2019

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p.2
28. Motor vehicles other than the daily rental of vehicles by businesses whose sole activity is automobile rental.
 29. Musical instruments.
 30. The sale of aural or video recordings, records, or tapes. Rental of these items is permitted.
 31. Toys other than those customarily sold as novelties or souvenirs.
 32. Mattresses.
 33. Bed coverings.
 34. Household linens.
 35. Floor coverings.
 36. Lamps.
 37. Draperies.
 38. Blinds.
 39. Curtains.
 40. Mirrors.
 41. Cloth piece goods.
 42. Lawnmowers.
 43. Sporting or recreational goods other than those sold or rented on the premises where sports or recreational activities are conducted.
 44. Paint and building and lumber supplies.

12.1-30-03. Businesses allowed to operate on Sunday - Limitations.

Subject to the limitations of this section and section 12.1-30-02, a business specified in this section may operate in the business's usual manner, location, and for its usual purposes. The businesses authorized under this section to operate on Sunday include:

1. Restaurants, cafeterias, or other prepared food service organizations.
2. Hotels, motels, and other lodging facilities.
3. Hospitals and nursing homes, including the sale of giftware on the premises.
4. Dispensaries of drugs and medicines.
5. Ambulance and burial services.
6. Generation and distribution of electric power, water, steam, natural gas, oil, or other fuel used as a necessary utility.
7. Distribution of gas, oil, and other fuels.
8. Telephone, telegraph, and messenger services.
9. Heating, refrigeration, and cooling services.
10. Railroad, bus, trolley, subway, taxi, and limousine services.
11. Water, air, and land transportation services and attendant facilities.
12. Cold storage warehouse.
13. Ice manufacturing and distribution facilities and services.
14. Minimal maintenance of equipment and machinery.
15. Plant and industrial protection services.
16. Industries where continuous processing or manufacturing is required by the very nature of the process involved.
17. Newspaper publication and distribution.
18. Newsstands.
19. Radio and television broadcasting.
20. Motion picture, theatrical, and musical performances.
21. Motor vehicle service stations that sell motor fuel and motor oil, and that customarily provide daily repair services or products for any of the following systems or parts of a motor vehicle:
 - a. Air-conditioning system.
 - b. Batteries.
 - c. Electrical system.
 - d. Engine cooling system.
 - e. Exhaust system.
 - f. Fuel system.

N.B. 1097
3.7.2019
att#1
p.3

- g. Tires and tubes.
- h. Emergency work necessary for the safe and lawful operation of the motor vehicle.
- 22. Athletic and sporting events.
- 23. Parks, beaches, and recreational facilities.
- 24. Scenic, historic, and tourist attractions.
- 25. Amusement centers, fairs, zoos, and museums.
- 26. Libraries.
- 27. Educational lectures, forums, and exhibits.
- 28. Service organizations (USO, YMCA, etc.).
- 29. Coin-operated laundry and drycleaning facilities.
- 30. Food stores operated by an owner or manager in addition to not more than six employees working in the store at one time on a Sunday; however, the governing body of a city or county may, by ordinance, increase the number of employees allowed to work in a store at one time on a Sunday.
- 31. Bait shops for the sale of live bait and fishing tackle.
- 32. Floral nurseries.
- 33. Christmas tree stands.
- 34. Hobby shows, craft shows, fairs, and exhibits.
- 35. Occasional rummage sales, including garage sales or other sales for which a sales tax permit is not required.
- 36. Community festivals licensed or authorized by the governing body of a city or the board of county commissioners.
- 37. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in section 5-02-05.
- 38. Credit approval services, lodging and travel reservation services, and, notwithstanding section 12.1-30-02, telemarketing of goods and services.
- 39. Bingo halls and onsite food concessions between the hours of twelve midnight and one a.m. and within the hours permitted under section 12.1-30-01.

12.1-30-04. Retail business leases or agreements - Penalty.

A retail business may not be required to be open on Sunday as a part of a lease agreement, franchise agreement, or any other contractual arrangement. A violation of this section is a class A misdemeanor.

N.B. 1097
3.7.2019
att #2

HB 1097 Senate Political Subdivisions, March 7, 2019

Senator Ray Holmberg



12.1-30-02 Bed coverings and Linens

7:30 a.m. Sunday, July 22, 2018 Hugo's Family Market



12.1-30-02 Clothing

8:00 a.m. Sunday, August 12, 2018 Valley Dairy, Grand Forks

H.B. 1091
3.7.2019
att #3 p 1

My name is Brandon Medenwald, and I'm the co-founder of Simply Made Apps, a software company located in downtown Fargo. I'm also the founder and chairman of North Dakota Open on Sundays: a grassroots, nonpartisan group of citizens organized to repeal the Sunday Closing law.

After I finish these remarks, I welcome your questions. There are few as familiar with this law as I, and there is not an argument for or against that I have not heard and cannot address. In fact, this bill is different than the version last session based on this committee's feedback.

I believe it's the right of all business owners to choose when we wish to operate. Many businesses have this right, such as farms, hospitals, restaurants, and even bait shops and Christmas tree stands. Today I'm asking this committee to allow other businesses that same freedom.

It's important to note that my business is not impacted by this law, and that I don't shop on Sunday mornings. I'm here because I believe this repeal promotes fairness and quite frankly is the right thing to do.

North Dakota has been trying for 130 years to craft a version of the Sunday Closing law that makes sense. The dilemma is that it cannot be done. There is no version of this law that can allow for emergencies (see hospitals, power plants), recreation (see bait shops and alcohol sales), and still not restrict the freedom of its citizens from conducting transactions that I think we can all safely agree are moral and acceptable. One person's leisure is another person's sin. One person's emergency is a convenience to another.

The last time this law was amended, it was 2015 and the so-called "brunch bill." This change allowed for alcohol sales at 11am to permit bars on the border to compete for football fans on Sunday. Not only has this change resulted in ZERO adverse effects, but it demonstrates that this body has recognized some businesses on the North Dakota side of the river have a need to compete with those in neighboring states.

Rather than attempt to make sense of this "Swiss cheese" law that contains over 80 exceptions, we can rather place this responsibility with the people of North Dakota where it belongs.

To be clear: repealing this law does not force businesses to open on Sunday mornings. To the contrary, repealing this law allows those that wish to open to do so while permitting those that wish to remain closed to do so. Repealing this law also does not force consumers to patronize these businesses on Sunday morning. Everyone can decide for themselves.

There are a few arguments against this repeal that are always proffered, so I'll preemptively address them now.

The first argument is that communities need common time for rest. You'll never hear me contend that rest, relaxation, family time, or religious celebration aren't crucial to society. However, there is no version of this law that can account for the differences in work circumstances, in family activity, in religion, or in community events that occur in our lives. It's hubris to think that we can mandate that everyone rest for the same 12 hour period each week regardless of their circumstances.

Last summer I spoke to a first responder's wife in Fargo. Her husband works Sunday mornings, and I think we can all agree that it's critical to have police, firefighters, and paramedics working 24/7. She told me that she would prefer to take her two children and complete their errands Sunday morning so when her husband was done working for the day, they could spend family time together. This law inhibits her family time, and she is not alone.

*HB. 1097
3.7.2019
att # 3p.2*

This body speaks at great length in these halls about freedom and personal responsibility. Why does the state government not trust the people to make responsible choices in their best interests? Or better still, why does the government care at all about how North Dakotans spend their time?

The second argument I hear repeatedly is that businesses don't want to be forced to open, and they wouldn't find help even if they could. Businesses won't be forced to be open any more than every other day of the week. Many cities in North Dakota have big-box chains or convenience stores that are open 24/7. This practice hasn't forced all retailers and gas stations to be open all night. Why should we assume that all retail businesses would operate differently if some were permitted to open a few hours earlier on Sunday? Remember what happened after noon openings were allowed in 1991: some stores opened, some didn't, and life moved on.

I grew up in Lidgerwood, North Dakota, with a population of around 600 people. In Lidgerwood, the hardware store is closed all day on Sunday. Like many small towns, if someone had a project and really needed something, they called John, and he'd head over to the store and sell them what they needed. That's what we in small-town North Dakota do. If HB-1097 passes, the hardware store will still be closed all day Sunday. The only thing that will change in Lidgerwood is that John won't be committing a class B misdemeanor while he's helping out a neighbor.

Please also remember: this law does not prohibit people from working on Sunday mornings. This law only prohibits stores from opening their doors. These employees are already working, cleaning the store, doing inventory, and so on. At Fleet Farm, just blocks from my house in south Fargo, every Sunday morning at 10am employees are busy at work. If the legislature's goal is to protect worker time off, then only strengthening labor laws (like the One Day in Seven Law we already have) will do that. The Sunday Closing law does not protect workers one bit.

Finally, I want to address the argument that people have 6 1/2 days to shop, why can't they live without shopping on Sunday mornings? Don't they have all day Saturday to shop? Putting aside many North Dakotans work all day Saturday, the better question is: should it be the role of government to care how citizens spend their time on Saturdays or Sundays?

We could, right now, pass a law that prohibits all restaurants from selling pancakes on Thursday mornings. That same argument could then be made: don't you have 6 1/2 other days to eat pancakes? Do you need to eat pancakes every day? Again, the better question is: should the state government be in the business of caring when its citizens choose to eat pancakes? There is no effect on my life if someone eats pancakes on Thursday morning, or buys a garden hose at 11:30am on Sunday.

In conclusion, I'm asking today that we no longer have on the books a top-down edict from the state government imposing its inflexible rule on how to spend your time above the judgement of individual North Dakotans everywhere. I encourage this Committee to issue a Do Pass recommendation on HB-1097. At this time, I look forward to fielding your questions and comments. Thank you, Mr. Chairman and members of the Committee.

HB 1097
3-7-2019
att #4



Greater North Dakota Chamber
HB 1097
Senate Political Subdivisions Committee
House Industry, Business, and Labor Committee
March 6th, 2019

Mr. Chairman and members of the committee, my name is Arik Spencer, President and CEO of the Greater North Dakota Chamber, which is the largest statewide business advocacy organization in ND. We stand in support of HB 1097.

The GNDC has long supported eliminating restrictions on opening on Sunday mornings to those who own or operate privately held businesses.

We believe there are several important reasons why we urge passage of this bill.

Number #1: Economic Freedom

There are numerous reasons stores open and close when they do. A primary driver is consumer demand in which customers tell us through their spending decisions if they will support additional hours of operation. Based on this, some businesses operate during regular business hours, while others are open twenty-four hours per day. Because businesses can determine what hours they wish to open, they may decide to remain closed on Sundays, such as national chains like Hobby Lobby and Chik Fillet due to personal philosophies. Whatever the reason for being open or closed we believe the decision belongs to the proprietor, not to the state.

Number #2: People already Work on Sunday Mornings

Employees in many industries including retail already work on Sundays. Retail workers, while being barred from opening the doors until noon, stock shelves and complete other activities already. The Blue Laws do not stop them from working on Sunday morning. Rather, the Blue Laws stop their employers from making money while the doors are closed to the public.

Number #3: Online Purchases

Blue Laws give an unfair advantage to online sales which happen unabated regardless of Blue Laws.

Number #4: Border Cities & Tax Revenue

Sunday morning store closings in a border city give a sister city in a neighboring state an advantage. When North Dakota citizens chose to shop across the border in a neighboring state on Sunday mornings their sales tax dollars cross the border with them.

Mr. Chairman, this concludes my testimony and I ask for a “do pass” recommendation on HB 1097.

H.B. 1097
3.7.2019
att H5

Sunday Blue laws bullet points

1. Government did not make up the blue law, God did.
2. State and Church have parallel interests. This is not just a religious matter
3. Wikipedia "Blue Laws in the US" - U.S. Supreme Court has held blue laws as constitutional numerous times,
 - a. protecting workers and families,
 - b. in turn contributing to societal stability and
 - c. guaranteeing the free exercise of religion
4. Design issue, like marriage, life, days of the week, sabbath, etc
 - a. To go against the laws of nature and nature's God is to our own peril. GENESIS 1
 - b. Like going against the law of gravity by jumping off a roof
 - c. UNLIKE OTHER BILLS, IF YOU GIVE THIS UP, WE WILL NOT BE ABLE TO RE-VISIT
5. Employers should want it
 - a. Blue laws are not just about freedom for employers, but freedom of religion for employees
 - b. Worship is still optional, not forced. Many workers will still not go to church, however, many will. So, the church is one of the best producers of good employees, who are honest, have integrity, are reliable, etc.
 - c. STATISTICS SHOW THAT, IN STATES THAT HAVE REPEALED, THE CHURCH AND COMMERCE COMPETE FOR ABOUT 50% OF THE POPULATION
 - i. COMMERCE ALWAYS WINS
 - ii. YOU CANNOT SERVE GOD AND MONEY
6. Notre Dame and MIT study
 - a. 2008, they found that, in states who have repealed the blue laws, there was a significant decline in church attendance and church contributions. Also, alcohol use among religious people went up.
 - b.
7. Over 300 years of AMERICAN HISTORY
 - a. ALL THE STATES
 - b. ALL THE FOUNDING FATHERS WHO WROTE THE ROLE OF GOVERNMENT
 - c. ALL THE EARLY AMERICANS WHO GAVE US LIBERTY BELIEVED IN THIS
 - d. DO WE THINK WE ARE THE GENERATION TO RID THEM?
8. Protect the church – founders wanted self governance.
 - a. Protected and promoted the church
 - b. Judeo Christian / not another religion
9. People have the same amount of money whether 6 or 7 days
10. Keep it where it is. Already a good compromise. Some would actually prefer all day closings.
11. Every day will be the same. ND can be a leader. Old timers had it right.
 - a. They did a better job at keeping families together; blue laws helped
 - b. THE BLUE LAWS ATTRACT WHOLESOME FAMILIES, UNLIKE INDUSTRIES THAT ATTRACT BOTH MONEY AS WELL AS DRUG DEALERS, HIGHER CRIME, HUMAN TRAFFICKERS, ETC
12. 50 SENATORS HOLD THE LAST CANDLE IN AMERICA, PLEASE VOTE NO AND KEEP IT BURNING!!!

H.B. 1097
3.7.2019
att #6 p.1

Senate Political Subdivisions HB 1097

Chairman Burckhard and members Committee on Political Subdivisions,

I am Representative Kathy Skroch, District 26, representing portions of Dickey, Ransom, Richland and all of Sargent counties of North Dakota.

I grew up at a time when there was actually a day set aside every week called Family Night. Through the collaborative work of School Districts, communities and families, Wednesday evenings were set aside to carve out free time when parents and children could have quality family time, for activities like having a meal around the dining table. This time was established by the recommendations of child and family experts, for the good of the family and for the building of relationships. Wednesdays are now packed with sports and extracurricular activities. What other day is left to have down time anymore? It is Sunday.

How do we plan major holidays? When schedules are so tight and we are trying to juggle work, school activities, meetings, community activities etc., what day do we choose? Our national holidays, Thanksgiving and Christmas are the most heavily traveled days of the year as loved ones come home to gather and celebrate. Many families choose the nearest Sunday. If we choose to celebrate on a Saturday, we do so to allow loved ones to travel all day Sunday in order be home for Monday work obligations.

Congress even changed the National Calendar, re-scheduling many of the national holidays to Mondays creating three-day weekends, for the good of the people.

HB 1097
3.7.2019
Att # 4 p.2

What day are you or your employees most likely to request off? (Even now with so little a remnant remaining of the Sunday Closing laws)? It's Sunday, the most universal day to try and schedule birthday parties for your kids and grandkids, the Sunday most near the "big day".

President George Washington, our Founding Father, understood the value of a day off. Not wanting his Federal Postal employees to work too hard, he established a mandatory day of rest for them. He chose Sunday. He demonstrated GREAT wisdom and understanding of the human person in this. There are incredible benefits from taking "down time". We need time for "R and R", time for Rest, Recovery, Regeneration, Relaxation, Restoration, Recreation, Relationships and Reflection. Please ponder these as you consider HB1097.

Committee members, I serve on the Human Services Committee and hear the witness of all the devastation resulting from broken and failing families, I can't help but wonder if lack of such time is the root cause.

You may have heard some say, "There is such a small remnant left of the Sunday closing laws, why bother trying to save it?" On the contrary, we should be making efforts to restore them.

When I consider all the above-mentioned benefits we receive from a day of rest, especially a universal day of rest, we should rather be making efforts to rebuild the Sunday closing laws. For the sake of our own wellbeing, for the good of our families and our state, we must not strip the last remnants of the North Dakota Sunday closing laws. I urge the committee to give HB 1097 a Do Not Pass recommendation.

Thank you for permitting me to speak before you this morning.

Kathy Skroch

*H.B. 1097
3.7.2019
att #7*

Blaine Mehlhoff
1716 East Omaha Drive
Bismarck, ND 58504
March 7, 2019

Good morning, Chairman and members of the committee.

The Sunday Closing law is a piece of our state's foundation. Our forefathers fore saw what businesses could do to individual freedom, so they wrote the Sunday Closing law to protect the individual's right of having a day of rest and recreation. But when you hear about the Sunday Closing law you will always hear of how it is discriminative and what it prohibits.

I took the time to read the Sunday Closing law and found out differently. What I learned is that the Sunday Closing law protects and encourages freedom to the hardworking people of North Dakota. It gives people the freedom to have a few hours from a hard working week to be able to relax and enjoy some time for themselves. The Sunday closing law was challenged in the ND Supreme Court on September 6, 1990 (Best Products Co. Inc. v Spaeth)

The ND Supreme Court stated that the purpose of the current law is to set aside a day of rest and recreation. In another paragraph, the Supreme Court said that the choice of Sunday as a day of rest does not constitute an establishment of religion.

In this particular case the Sunday Closing law was challenged in 10 different instances and in all the instances the Sunday Closing law was upheld. The Supreme Court concluded that there is no conflict between the Sunday Closing law and either the United States or the North Dakota constitutions.

I would also like to add that the people who dislike the Sunday Closing law tried to get signatures on a petition to put it on the ballot and were not able to get enough signatures to get it on the ballot. In my opinion, this shows that the majority of the people are for the Sunday Closing law.

In conclusion, the Sunday Closing law is for giving and protecting the freedom of the individual. I strongly encourage you to support the Sunday Closing law and support the hardworking people of North Dakota. Please give a Do Not Pass recommendation on this bill HB 1097.

March 7, 2019

H.B. 1097
3.7.2019
att #8 p.1

SENATE POLITICAL SUBDIVISIONS COMMITTEE

HOUSE BILL 1097

Regarding repeal of Sunday Closing Law

Views of Berdette Howe, Bismarck ND

Your defeat of HB 1097 is requested.

Some question whether it is the proper role of the legislature to deal with protections of religious freedoms in our state. Please consider that it may not only be proper, but that it is the duty and responsibility for the legislature to protect workers in the free exercise of their religion, as described in:

The US Constitution, First Amendment - Bill of Rights

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;

Clearly the rights of people of faith are violated if they are given the ultimatum of being required to work on Sunday mornings or not having a job. They may instead desire to exercise their right to attend worship services without repercussions. From direct knowledge, I am aware that some retailers will not even consider job applications if a prospect states they are unwilling to work on Sunday mornings. Some have concluded that the decision should be left up to business owners and workers. Without the current law left in place, the workers would lose a major protection.

One argument of the proponents of the bill argue that people can attend church some other time or day of the week. Not true for many. In the church I attend, we have only one service a week at 9:30 on Sunday mornings. When considering ND church schedules, it appears the most frequent offering of services is on Sunday mornings.

Another argument is that with the abundance of job openings around the state, workers can go find another job elsewhere. In reality, that is far easier said than done, based on skill sets, location, compensation etc. Many of the open jobs may also require a Sunday work schedule.

H.B.1097
3-7-2019
Att.48 p.2

Some proponents of the bill say things like 'times have changed, and the law is no longer relevant or fashionable'. It seems apparent that most of our society functions best when a basic moral code is followed. It seems that most would agree that the basic tenants of the 10 Commandments are still beneficial and relevant, such as - honor parents, do not lie, do not kill, do not commit adultery; but for some reason, the command to remember the sabbath day to keep it holy, and six days of work and a seventh day of rest, has been singled out and can now be freely ignored.

It has been observed that even though stores are currently closed on Sunday mornings, that some workers are required to be at work. That argument for removing the protection is weak. The practice appears to be contrary to the spirit of the law, but even so does not require the full sales force to be present. We do not take down speed limit and stop signs because of non-compliance.

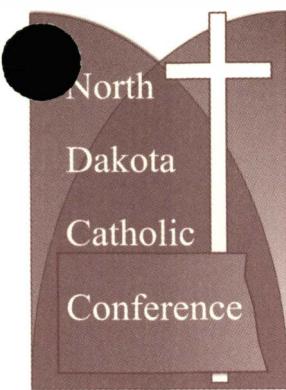
For those of faith, the moral code given by our Creator has been around for about 3,400 years. Seems odd that it would now no longer be worth honoring.

For those that are atheist or disagree with the above views, the appeal is that we at least honor the right for people to enjoy the free expression of their faith.

Retail stores in ND are already commonly open in excess of 70 hours per week with 10 am start times. The extra two hours to be gained by the bill hardly seems comparable to the loss of religious freedoms at stake. I hope the decision will come down to honoring God and not money.

I urge you to work to defeat HB 1097.

H.B. 1097
3.7.2019
att#9 p.1



Representing the Diocese of
Fargo and the Diocese of
Bismarck

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To: Senate Political Subdivisions Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bill 1097 - Repeal of Sunday Morning Law
Date: March 7, 2019

The North Dakota Catholic Conference opposes House Bill 1097.

Plato noted that when it comes to lawmaking prudence is chief among virtues. Every public policy proposal ought to be judged by its probable long-run consequences and not merely its temporary advantage or popularity. Moreover, the presumption should rest in favor of retaining the wisdom of our predecessors while the purveyors of change should have the burden of making a compelling case for change.

So let us examine their case.

We have heard that the purpose of the current law is to impose times of worship and adherence to religious doctrine. Our courts, however, have repeatedly rejected this canard, holding that the “purpose of our Sunday closing statutes is, not to aid religion, but to set aside a day of rest and recreation.”¹

We have heard that numerous exceptions already exist and some seem inconsistent. This is true, but it is not itself an argument for repeal any more than it is an argument for scaling back the exceptions. We should keep in mind the principle in lawmaking that the devil we know is preferable to the devil we don’t know.

We have heard that repealing the law can aid North Dakota’s budget and economy. Maybe, but at what price? A truly healthy economy is not one that succumbs to an unbridled demand for private profit and government revenue. It is instead one that fosters the common good so that people can fully develop as human persons.

We have heard that the law gives bordering states an unfair economic advantage. That claim is spurious considering our strong economy.

Nevertheless, even if it is true, a race to the bottom by every state is not a desirable outcome and defeats the very purpose of having states.

We have heard that the law hurts the economy and makes North Dakota undesirable as a place to live. According to *U.S. News and World Report*, North Dakotans enjoy the best quality of life in the nation. We have been one of the five fastest-growing states percentage-wise since 2010. North Dakota made the list of 10 Best States to Start a Business. Year-over-year taxable sales and purchases have increased every quarter since April 2017.²

We have heard that a repeal would merely allow those who wish to open to do so while permitting those who want to close to remain closed. This claim is so contradicted by the facts that it is difficult to take seriously. Two years ago I was told by Canadian reporters that the Winnipeg Chamber of Commerce members wanted to stay closed Sunday mornings but that if North Dakota changed its law, they would have no choice but to change the province's law to allow opening earlier. Go to any state that allows businesses to open Sunday morning and you will find nearly all businesses open. Two national chains are often cited as examples how a business can stay closed on Sunday if it chooses. But the fact that we can name just two out of the hundreds of thousands of businesses in the country indicates that they are the exception that proves the rule.

A free market is a good thing, but without reasonable parameters that place it at the service of the human person, the economy can become a powerful force that removes true choice and freedom. Most often it is the smallest businesses that hurt the most.

Humans and communities need periods of rest and free time that allow them to tend to family, cultural, social, and religious life. The people who helped make North Dakota the great state it is understood this. Their collective experience taught them that some things are more important than profit and convenience. We owe it to them and future generations to preserve this part of the North Dakota way of life.

We urge a **Do Not Pass** recommendation on House Bill 1097.

Y.B.1097
3.7.2019
Att#9 p.3

¹ *State v. Gamble Skogmo, Inc.*, 144 N.W.2d 749 (N.D. 1966) at 769; *Best Products Co., Inc. v. Spaeth*, 461 N.W.2d 91 (ND 1990); *McGowan v. Maryland*, 366 U.S. 420 (1961) [quoting Justice Stephen Field: "In its enactment, the Legislature has given the sanction of law to a rule of conduct which the entire civilized world recognizes as essential to the physical and moral wellbeing of society. Upon no subject is there such a concurrence of opinion among philosophers, moralists and statesmen of all nations as on the necessity of periodical cessations from labor. One day in seven is the rule, founded in experience, and sustained by science. . . The prohibition of secular business on Sunday is advocated on the ground that, by it, the general welfare is advanced, labor protected, and the moral and physical wellbeing of society promoted."]

² 2019 State of the State Address, Governor Doug Burgum (<https://www.governor.nd.gov/sites/governor/files/documents/2019%20State%20of%20the%20State%20Final%20Copy.pdf>)