Unanimously, but with great differences of approach, the Court declared invalid a Tennessee statute barring ministers and priests from service in a specially called state constitutional convention.[303] The Court's decision necessarily implied that the constitutional provision on which the statute was based, barring ministers and priests from service as state legislators, was also invalid.

General Governmental Requirements.—*Braunfeld v. Brown*[304] held that the Free Exercise Clause did not mandate an exemption from Sunday Closing Laws for an Orthodox Jewish merchant who observed Saturday as the Sabbath and was thereby required to be closed two days of the week rather than one. This requirement did not prohibit any religious practices, the Court's plurality pointed out, but merely regulated secular activity in a manner making religious exercise more expensive.[305] "If the State regulates conduct by enacting a general law within its power, the purpose and effect of which is to advance the State's secular goals, the statute is valid despite its indirect burden on religious observance unless the State may accomplish its purpose by means which do not impose such a burden."[306]

But, as discussed previously, within two years the Court in *Sherbert v. Verner*[307] reversed this line of analysis to require a religious exemption from a secular, regulatory piece of economic legislation. Sherbert was disqualified from receiving unemployment compensation because, as a Seventh Day Adventist, she would not accept Saturday work; according to state officials, this meant she was not complying with the statutory requirement to stand ready to accept suitable employment. If this denial of benefits is to be upheld, the Court said, "it must be either because her disqualification as a benefi-

---

[303] McDaniel v. Paty, 435 U.S. 618 (1978). The plurality opinion by Chief Justice Burger, joined by Justices Powell, Rehnquist, and Stevens, found the case governed by Sherbert v. Verner's strict scrutiny test. The state had failed to show that its view of the dangers of clergy participation in the political process had any validity; Torcaso v. Watkins was distinguished because the state was acting on the status of being a clergyman rather than on one's beliefs. Justice Brennan, joined by Justice Marshall, found *Torcaso* controlling because imposing a restriction upon one's status as a religious person did penalize his religious belief, his freedom to profess or practice that belief. Id. at 629. Justice Stewart also found *Torcaso* dispositive, id. at 642, and Justice White found an equal protection violation because of the restraint upon seeking political office. Id. at 643.

[304] 366 U.S. 599 (1961). *See* "Sunday Closing Laws," *supra*, for application of the Establishment Clause.

[305] 366 U.S. at 605–06.

[306] 366 U.S. at 607 (plurality opinion). The concurrence balanced the economic disadvantage suffered by the Sabbatarians against the important interest of the state in securing its day of rest regulation. McGowan v. Maryland, 366 U.S. at 512–22. Three Justices dissented. Id. at 561 (Justice Douglas); Braunfeld v. Brown, 366 U.S. at 610 (Justice Brennan), 616 (Justice Stewart).

[307] 374 U.S. 398 (1963).