

SUNDAY LAWS.

Way v. Foster, 1 Allen, 408. In Maine, it is held that no action lies for the death of a horse by fast driving on Sunday, but that trover for conversion will. *Morton v. Gloster*, 46 Me. 520. See *Woodman v. Hubbard*, 5 Foster, 67.

In *Bryant v. Brideford*, 39 Me. 193, a horse was let on Sunday, and an injury occurred after the legal expiration of the day. The town was held liable for an injury arising from want of repair of the road.

In Massachusetts, the Courts have been recently called upon to give an interpretation to the word "travelling," in two recent cases which are not yet reported. In *Hamilton v. The City of Boston*, the plaintiff received an injury on Sunday from a defect in the highway. The Court held that walking half a mile in the streets of Boston on Sunday evening, with no intention of going to or stopping at any place but the plaintiff's own house, was not travelling within the meaning of the Lord's Day Act; but in *Stanton v. Metropolitan R. R. Co.*, where plaintiff received an injury by being thrown from one of the defendants' horse cars, while on the way to visit a friend, it was held that the plaintiff was travelling in violation of the Lord's Day Act. In England, where the Sunday law forbids the selling of ale or spirit to any but travellers on Sunday, it is held that "a man who goes a short distance from home, for the purpose of taking refreshment, is not a traveller." *Taylor v. Humphreys*, 10 C. B. (N.S.) 429.

The carrying of the United States mail on Sunday awakened a discussion, which became important in a political point of view, about the year 1830, and was made the subject of party issues. (See the Report of Hon. R. M. Johnson, of the Committee of the United States House of Representatives, which shows how serious a consideration was given to the question.) Before this, in Massachusetts, it had been held that one carrying the mails on Sunday could not be arrested, but not so his passengers, "nor may he blow his horn to the disturbance of serious people." *Commonwealth v. Knox*, 6 Mass. 76. Although the mails were allowed to travel on Sunday in Massachusetts, it was not so with the Chief Justice of the State and his associates. An indictment was filed against them in 1793 for travelling on Sunday, and they found it necessary to humbly petition the Legislature to authorize a *nolle prosequi*.

In Rhode Island, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Kentucky, Indiana, Mississippi, Illinois, Alabama, Missouri, Arkansas, Wisconsin, Texas, Michigan, and Florida, travelling is not forbidden on Sunday.

In Pennsylvania, it has been held that the statute does not forbid travelling. *Jones v. Hughes*, 5 S. & R. 299. But it does not allow an omnibus or horse car to be driven on that day, it being held a worldly employment and breach of the peace. *Johnston v. Commonwealth*, 22 Penn. St. 102. This has been

recently overruled in *Sparhawk v. Union Passenger R. R. Co.*, not yet reported. So the hire of a horse for a pleasure excursion on Sunday cannot be recovered. *Berrill v. Smith*, 2 Miles, 402.

By the Delaware statute, carriers, pedlers, and stage drivers are forbidden from driving or travelling on Sunday. The Ohio statute provides that emigrants are not affected by its terms; and that of Tennessee, that nothing in the statute shall prevent travellers or persons moving with their families.

What effect a contract made on Sunday, and so void, has upon the rights of third parties, has been considered by the courts. Thus a note made and delivered on Sunday, though illegal, if indorsed before maturity, without notice of any defect, to a *bona fide* holder, cannot be impeached in his hands. *State Bank v. Thompson*, 42 N. H. 369; *Bank of Cumberland v. Mayberry*, 48 Me. 198; *Allen v. Dening*, 14 N. H. 133. A deed on Sunday cannot be avoided by a stranger to the transaction claiming by a subsequent levy. *Greene v. Godfrey*, 44 Me. 25; *Richardson v. Kimball*, 28 Me. 463. See *Saltmarsh v. Tuthill*, 13 Ala. 390.

An extended examination of the Sunday laws, with their differing terms, and of the various and conflicting decisions under them, suggests the inquiry as to what legislation is best fitted to accomplish that which every good citizen desires—a proper observance of Sunday. A thorough discussion of this question opens the door to the arguments which have been offered on both sides in such numbers upon the propriety of setting apart any day of the week, especially as a day of worship; it being contended by some that all days should, in their religious observance, be alike. Persons holding these views agree, however, that there is a necessity, in the physical nature of man, for occasional rest, and that therefore a cessation from work at fixed intervals is proper. In support of this position, they cite the meaning of the Hebrew word rendered "Sabbath," which is *rest*; and claim that the only thing commanded by the Scripture is *rest*; that the space of six days seems to be the natural limit of successive labor without physical injury; and that therefore, as a mere regulation for the preservation of the public health, there should be a law forbidding labor on each seventh day. See 2 Ohio St. 387. The result of the decree of the National Convention of France, 3 Brumaire, An 2 (Oct. 24, 1793), whereby the *decade* or period of ten days, of which the tenth was appointed as a day of suspension of labor, was substituted for the week, is also cited. After a period of twelve years, the old division of time was restored by Napoleon—one day in ten having been found to give insufficient rest. The translation of the Hebrew word *kadesh* by the word "holy," in the phrase "Remember the Sabbath day, to keep it *holy*," is claimed by some to be erroneous, and that the true import