

## The Legal News.

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The Supreme Court of Pennsylvania, in *Com. v. Waldman*, decided Feb. 16, 1891, holds that the public employment of a barber on Sunday is not a work of necessity. Chief Justice Paxson observed:—"We are asked to say that shaving is a work of 'necessity,' and therefore within the exceptions of the act of 1794. It is perhaps as much a necessity as washing the face, taking a bath or performing any other act of personal cleanliness. A man may shave himself, or have his servant or valet shave him, on the Lord's day, without a violation of the act of 1794. But the keeping open of his place of business on that day by a barber, and following his worldly employment of shaving his customers, is quite another matter; and while we concede that it may be a great convenience to many persons, we are not prepared to say, as a question of law, that it is a work of necessity within the meaning of the act of 1794. We do not make the law; our duties are limited to interpreting it, and we feel ourselves bound by the construction our predecessors have placed upon the act for nearly a century."

Mr. S. W. Cooper is the writer of an article on "The Tyranny of the State," which appears in the *Popular Science Monthly*. He cites a number of instances to support his position that personal liberty and the rights of property are constantly violated, and the citizen is without redress. We have room for only a few examples. "Although the claimant has been wrongfully kept out of his own for years, and finally recovers a judgment, the United States calmly tells him that it never pays interest on its debts (*United States v. Bayard*, 127 U. S. 251); yet if it has a claim against a citizen who is insolvent it demands every dollar of it, with interest, before any other creditor can be allowed a cent. *Brent v. Baule*, 10 Pet. 596." He refers to a recent decision of the U. S. Supreme Court, (*Powell v. Pennsylvania*, 127 U. S. 678) in regard to

oleomargarine:—"Could a greater outrage have been inflicted on a citizen? The State passes laws that provide for the manufacture and sale of a commodity; then, after the business has been established, makes the citizen a criminal who put his capital into it at its invitation. To produce a cheap, wholesome food would seem to be deserving of commendation rather than a prison cell." \* \* \* "Again, take the instance of a man accused by the State of crime who is innocent. All the power of the social body is exerted to make him out a criminal. He is put to enormous expense in the employment of counsel, the obtaining of evidence, and all the incidental expenses of a trial; his business may be broken up, and his hopes and happiness in life wrecked. Yet, even if he is proved innocent, the whole burden falls on him, for the State makes no compensation for mistakes." \* \* \* "By the Constitution of the United States all citizens are to be protected against all unlawful searches and seizures; but these rights are continually violated, without redress, by the action of brutal and ignorant officers who, without authority, make police raids and do irreparable injury to innocent men."

A question of survivorship was submitted to the Court of Appeals of Maryland in *Couman v. Rogers*, Jan. 22, 1891. The Court said:—"By the Roman law, if a father and son perish together in the same shipwreck or battle, and the son was under age of puberty it was presumed that he died first, but if above that age, that he was the survivor, upon the principle that in the former case the elder is generally the more robust, and in the latter, the younger. The Code Napoléon had regard to the ages of fifteen and and sixty, presuming that of those under the former age the eldest survived, and that of those above the latter age the youngest survived. If the parties were between those ages, but of different sexes, the male was presumed to have survived; if they were of the same sex the presumption was in favor of the survivorship of the younger. By the Mahometan law of India, when relatives thus perish together, it is to be presumed that they all died at the same moment; and