v. *Tracy*, 3 W. & S. 507; *Morgan* v. *Richards*, 1 Browne, 171. In this State, the question has been raised, whether a marriage entered into on Sunday was valid, and it was so held; but, upon the question of the validity of the marriage settlement made on that day, the Court were divided. *Gangwere's Estate*, 14 Penn. St. 417.

Where a party has set up a claim for damages, the question has arisen whether the fact that he was, by the Sunday law unlawfully engaged, was a good defence. This has been held to so in Massachusetts. *Bosworth* v. *Swansey*, 10 Met. 363; *Jones* v. *Andover*, 10 Allen, 18; *Stanton* v. *Metropolitan, R. R Co.* (not yet reported). But in *Etchberry* v. *Levielle*, 2 Hilton, 40, it was held no defence to a suit for damages arising from a tort inflicted during a game, that such game was unlawful. See also *Mohney* v. *Cook*, 26 Penn. St. 342, and *Philadelphia R.R. Co.* v. *Tow Boat Co.* 23 Howard, 209, where damage was done to a vessel sailing on Sunday.

With the large number of foreigners found in some of our States, it is not remarkable that the Courts have been called upon to settle whether the legislature can, by such enact ments as Sunday laws, restrict them in the use of their property, limiting its value, and calling upon them for an observance of Sunday in a manner so different from that to which they have been accustomed in their own country. Thus in New York, in *Lindenmuller* v. *People*, 33 Barb. 548, it was claimed that the law forbidding the opening of theatres on Sunday is a "deprivation of the citizen of his property," under the Constitution; but the Court, in an opinion of great length, refuse to sustain this position.

In *Ex parte Andrews*, 18 Cal. 678, the provision prohibiting all persons from opening their places of business on Sunday, was held to be not unconstitutional. This was affirmed in *Ex parte Bird*, 19 Cal. 130.

For acts of charity and necessity there is a universal exception from the effect of the Sunday laws; but what shall be so held has given rise to a diversity of decisions. The legal definition of a work of necessity is well stated in *Flagg* v. *Millbury*, 4 Cush. 243, where the Court say that a physical and absolute necessity is not wanted; "but any labor, business, or work which is morally fit and proper to be done on that day, under the circumstances of the particular case, is a work of necessity within the statute." So that the repairs of a road, which should be made immediately, is a work of necessity; and the fact that it would have to be done on Sunday is no defence in an action for damages arising from a defect in an action for damages arising from a defect in the highway. So if property is exposed to an imminent danger, it is not unlawful to preserve it and remove it to a place of safety on Sunday; as where a plaintiff agreed to collect logs scattered by a storm, and defendant agreed to take them away on the next day, which should be a Sunday, Tuesday, or Friday, the contract was held to be binding. *Parmalee* v. *Wilks*, 22 Barb, 539. So labor on merchandise which A. has agreed to ship, and where longer delay is dangerous on account of the closing of navigation, is within the exception. *McGatrick* v. *Wason*, 4 Ohio St. 566.

In Alabama, a contract made on Sunday, to save a debt or avoid a threatened loss, has been held valid. *Hooper* v. *Edwards*, 18 Ala. 290; s. c. 25 Ala. 528. The hire of a horse and carriage on Sunday by a son to visit his father in the country, was held to be a valid contract. *Logan* v. *Mathews*, 6 Penn St. 417. In Massachusetts, where travelling on Sunday is prohibited, in *Buffinton* v. *Swansey* (an unreported case, tried in Bristol County, November Term, 1845), the facts showed that a young man, who worked at a distance during the week, received injuries arising from a defect in the highway, while proceeding to visit his betrothed on Sunday, and the point was raised, and discussed by the court, whether such visit might not be an act of necessity or charity. The question, however, never reached the full Court.

The letting of a carriage for hire on Sunday from a belief that it was to be used in a case of necessity or charity, when it was not in fact so used, has been held not to be an offence under the statute. *Meyers* v. *The State*, 1 Conn. 502. The supplying of fresh meat on Sunday is not a necessity in Massachusetts. *Jones* v. *Andover*, 10 Allen, 18. The case of *State* v. *Goff*, 20 Ark. 289, if the facts are correctly reported, would seem to be one of too great strictness of interpretation. Defendant was poor; had no implements to cut his wheat, which was wasting from over-ripeness; and he could borrow none until Saturday evening. He exchanged work with his neighbors during the week, hired a negro, and cut his own wheat on Sunday. Held no justification for breaking the Sabbath.

In 1618, James the First of England issued his famous "Book of Sports," in which are set out the sports which "may be lawfully used on Sunday." This was in consequence of the complaints of the arbitrary interference of Puritan magistrates and ministers; and it is therein provided that "the people should not, after the end of divine service, be disturbed, letted or discouraged from any lawful recreation." The Statute of Car. I, c. 1, which prohibits sports on Sunday, did away with the effect of the "Book of Sports;" and and a similar law is to be found in most of the States.

Travelling upon the Sunday is especially forbidden in some of the States; viz, Massachusetts, Vermont, Connecticut and New York. Under these statutes, it has been held that where a horse has been let to go a certain distance on Sunday, and is driven further, and so injured, no action will lie for such injury. *Gregg* v. *Wyman*, 4 Cush. 322. So where a horse was injured by fast driving on Sunday.