

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, pedlars, 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*, 18 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 of the word is "set apart." For this there seems to be the strongest authority in Calvin (Comm. on Gen. ii. 3), and Bishop Horsley (Sermons 22 and 23 on Christian Sabbath). See also the meaning of the word, as illustrated by Dr. Campbell (Dissertation VI., Part IV., prefixed to his Translation of the Gospels.) From this it is claimed by some, that there is no divine command for the religious keeping of any day of the week.

On the other hand, there are a large number of Christians who believe that the observance of Sunday is a divine appointment (see Hessey's "Bampton Lectures," which contain an exhaustive discussion of the whole Sunday question), among whom there are some who would have enforced it in the strictest manner; so that the early Connecticut statute before mentioned, would not be held by them too severe, nor the interpretation of the word "necessity" in Arkansas too narrow, *State v. Goff*, 20 Ark. 289; while others would have the legislation so shaped as not to make it obnoxious to the community.

It is difficult for any one who has read Dr. Whately's "Thoughts on the Sabbath" to escape his result—that the Lord's day has no connection with the Jewish Sabbath, and has no divine origin; neither was it established by the apostles, but by the Church. Those who are embraced in this class, for the most part hold that the religious observance of Sunday is most valuable for the moral nature of man, and that every assistance for its maintenance should be given it by the law. The Jews, Seventh-day Baptists, and other so called sabbatarians, think that the *seventh day* should be the one selected, and would call legislation to assist them in enforcing it. There are many qualifications, not alluded to, in the opinions which have been held, as to what shall constitute a proper observance of one day in seven; but those above stated are thought to give the main features of this many sided question. What manner of legislation will combine and reconcile them all, it is not easy to conceive. Perhaps the statutes of New Hampshire and Illinois would best, theoretically, meet the case. It will be remembered, that no labor in those States is allowed to the disturbance of others; but the case of *Varney v. French*, 19 N. H. 233, alluded to above, shows how narrow its terms may become by interpretation. Perhaps if it were left to the jury to say what constitutes a "disturbance," the difficulty might, in a measure, be removed — *American Law Review*.

The shortest will extant is possibly that of Lord Wensleydale, which was proved on the 8th ultimo. It runs thus:—"This is the last will of me, James, Lord Wensleydale. I give all my property, real and personal, and all I have in the world, and that I have the power to dispose of, to my beloved wife Cecilia, her heirs and executors, absolutely. This 25th day of November, A. D. 1863 WENSLEYDALE." The estate was sworn under £120,000. — *South London Press*