

## SUNDAY LAWS.

*SUNDAY LAWS—WORKS OF  
NECESSITY.*

The Judges of the Common Pleas Division have just decided in *Regina v. Taylor*, that it is unlawful for an ordinary barber to shave his customers upon Sunday; and this on the ground that he is a workman within the meaning of the Lord's Day Act (R. S. O. ch. 189, sec. 1.), and the shaving is a worldly labour or work done by him in the course of his ordinary calling as a barber, and is not a work of necessity or charity. Their Lordships were not prepared to say that a barber connected with an hotel would not be permitted to shave on the sacred day; for in such a case he might be looked upon as a servant kept in a private family to do work on Sundays as well as other days. The Court considered the Scotch case of *Phillips v. Innes*, 4 C. & F. 234, decided in 1837, and in which the House of Lords declared shaving on Sunday by a barber not a work of necessity or mercy, a binding decision.

The subject is not only an important, but also an interesting one. It has been considered by several Courts on the other side of the line. In *Commonwealth v. Jacobus*, 1 Penn. Leg. Gaz. Rep. 491, it was held that the business of a barber in shaving his customers on Sunday morning is "worldly employment," not "a work of necessity or charity." The Court said: "It is argued that as the law does not forbid a person to wash and shave himself on Sunday, and thus to prepare himself to attend public worship, or otherwise properly to enjoy the rest and recuperation, which it was the purpose of the day to give, therefore, another may do it for him without incurring the condemnation of the law. This view is not sustained by the authorities. \* \* \* It is further contended by the counsel for the defendant, that long-continued usage and customs of society, prove that the business of a barber is by common consent considered a necessity within

the meaning of the law. \* \* \* But is it a work of necessity? Many persons shave themselves on that day, who are shaved by a barber on other days of the week, and not one in ten who shave on that day employ the services of a barber." In this case Jacobus shut up his "tonorial parlour" at ten o'clock on Sunday morning; the Court thought that made no difference, and added, "if the closing of these shops on Sundays is an inconvenience to the public, the remedy rests with the Legislature and not with the Court.

Lord Brougham, by the way, in *Phillips v. Innes*, seemed to think that the shaving might be done in Dundee on Saturday, as the Glasgow people did it then. The magistrates of Dundee had held that shaving on the Sabbath was right, although it was "not lawful for the barber to work in the making of wigs on Sunday."

In another case in Pennsylvania, it was held to be illegal for a barber to shave on Sunday, even those who were sick on Saturday and could not come on that day to be cleansed; and the fact that he did not charge for his labour is considered no excuse. (*Commonwealth v. Williams*, Pearson's Decisions, p. 61.) Even so late as the middle of the eighteenth century "ministers were sometimes libelled" in Scotland "for shaving" themselves on the Lord's day. (Buckle, vol. iii., ch. iv., note 183.)

On the other hand, a barber at Tunbridge Wells was summoned for infringing the Act of Charles II., and he ingeniously pleaded that if any of his customers had no money, they were shaved for nothing, thus making "the operation a work of charity," and further, that if a footman or waiter were not shaved on Sundays he would probably be discharged, and to serve him was therefore "a necessity." This satisfied the magistrate and the summons was destroyed. (*The Graphic*, Nov. 27th, 1879.)

And in Tennessee, a couple of years ago, it was held that keeping open a barber's shop