

SUNDAY LAWS.

and South Carolina, an early statute compelled attendance at church. The effect of slavery shows itself in the Sunday laws of some of the States. Thus, in Virginia, *any free person* found laboring at any trade or calling on Sunday was liable to a fine; while in Texas the only provision which forbids laboring on Sunday is one which fines any person who shall compel *his or her slaves, children, or apprentices to labor*, except in the sugar-making season and to save a crop, on that day.

In Florida, it is provided that "no person shall employ his apprentice, servant, or slave in labor, and that no merchant shall keep open his shop," on Sunday; and this seems to be the only restriction upon labor in this State on that day. The same statute exists in Alabama, with a provision that contracts made on Sunday are void.

In Ohio and Illinois, the Sunday laws, which are as stringent as in most States, have been made to yield to the throng of emigration which sweeps over them, by a provision that nothing shall prevent emigrants moving forward on Sunday, and that ferrymen, tollgate-keepers, and the like, shall be allowed to labor on that day in their behalf.

A tolerance toward those who believe that the seventh day of the week, instead of the first, should be set aside for observance, is shown in some of the States by making such persons exempt from the provisions of the Sunday law. This is so in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Ohio, Indiana, Illinois, Arkansas, Michigan, Kentucky, and Wisconsin. In all the above mentioned States the exception is general, save in Rhode Island, New York, and New Jersey. In Rhode Island, after providing that "all professors of sabbatarian faith or of the Jewish religion" shall be permitted to work on Sunday, the statute denies them the liberty of opening shops for the purpose of trade, or of loading or unloading vessels, or of working at the smith's business or at any other mechanical trade, in any compact village, except the compact villages of Westerly and Hopkinton. In New York and New Jersey there seems to be a qualified exemption for Jews and other sabbatarians, by a provision which excuses them from jury and other public duties on Saturday, and from answering process on that day.

Either from inadvertance or a want of the liberality shown in the other States, the Sunday laws of Pennsylvania, New Hampshire, Delaware, Maryland, North Carolina, South Carolina, Georgia, Tennessee, Mississippi, Alabama, Florida, and California are silent in regard to this by no means inconsiderable class; and it has been held in the first mentioned State that the provisions of the Sunday laws apply to Jews as well as others. *Commonwealth v. Wolf*, 3 S. & R. 48; *Society &c., v. Commonwealth*, 52 Penn.St. 125; *City Council*

v. Benjamin, 5 Strobb. 508; but see *Ex parte Newman*, 9 Cal. 502.

Thus far reference has been had chiefly to the provisions of the statutes of the different States in regard to the observance of Sunday, which serve to illustrate the spirit or characteristics of the State where they are found,—an investigation perhaps more curious than valuable. The most important differences, in a legal point of view, are those which are found in comparing the clauses in the statutes of the different States which restrict business, labor, and pleasure on the first day of the week.

In *Swann v. Broome*, 1 W. Bl. 526, Lord Mansfield gives the history of the common law doctrine, "*Dies Dominicus non est juridicus*," and declares that no judicial act could be done on Sunday. Other than this, the common law makes no distinction between it and any other day. The case of *Hiller v. English*, 4 Strobb. 486, contains an exhaustive discussion upon the limitation placed on judicial acts upon Sunday.

Laws upon the observance of Sunday came naturally from the Church at an early day; but it was not until after six hundred years that labor and secular business were prohibited by it, and then only so far as they are an impediment to religious duties, and because of their being so.

The earliest important civil legislation (5 & 6 Ed. V. c. 3) looks only to the religious celebration of the day, "that it be kept holy," and in no manner forbids labor. The statute 1 Eliz. c. 2, and 3 Jac. I. c. 4, § 27, in the same spirit, punishes by fine "all persons having no lawful or reasonable excuse for absence from church," but puts no further restriction on the observance of Sunday.

We are obliged to wait until the statute of 29 Car. II. c. 7, § 1, before we find any restriction, in terms, upon labor on the first day of the week. Up to this time, the laws had been but a re-enactment of the first clause of the Mosaic law known as the Fourth Commandment, "Remember the sabbath day to keep it holy." This statute seems to be the interpretation in that age of the remainder of that Commandment; viz., "Six days shalt thou labor, and do all thy work," &c. From this statute (29 Car. II. c. 7, § 1) spring, with many modifications, the Sunday laws, as they are now found in this country.

In some of the States, as we have seen, the statute of Elizabeth compelling attendance at church has been followed (though all such laws are now, it is believed, repealed); but, for the most part, sufficient, and many of these follow closely upon the English statute of Charles II. in their terms. By this statute, no tradesman, artificer, workman, laborer, or other person or persons whatever, shall do or exercise any worldly labor or business, or work of their ordinary calling, on Sunday; and it prohibits the sale or hawking of goods and wares.