

THE
AMERICAN LAW REGISTER.

MAY 1878.

SUNDAY CONTRACTS, WHEN VOID AND WHEN
BINDING.

THE design of the present paper is a consideration of the various decisions which have been rendered throughout the states upon the statutes known as the "Lord's day Acts," in their bearing upon contracts made upon Sunday, an inquiry as to what acts done and instruments executed upon that day have been held to be valid, and what have been considered void.

Before entering upon a review of the decided cases, however, it may be well to sketch briefly the history of the Christian Sabbath as it is connected with matters of a judicial and secular interest.¹

By the earlier Christians all days of the year seem to have been looked upon as of the same nature and character; but there early grew up among them a custom of meeting for purposes of prayer and praise, upon that day which in the religious observances of the earlier European nations was held sacred to Apollo or the sun, namely Sunday (*dies solis*); and by the middle of the second century this day had grown familiar as their stated time of coming together for worship. This distinction of the day gradually became more and more marked until A. D. 321, when Constantine the

¹ In the case of *Sparhawk v. The Railway Co.*, 54 Penna. St. 432, will be found a very complete and exhaustive history of the Sabbath, by the late Chief Justice READ.

Great decreed that "upon the venerable day of the sun, all judges and people of the town should rest, and all the various trades be suspended;" which ordinance may be regarded as the real origin of the Christian Sabbath as it exists at the present time; and upon the foundation thus afforded, the church gradually built up its system of rules and regulations for the observance of the day as an occasion of peculiar sacredness.

The regard entertained by the common law for the Sabbath, as distinguished from other days, seems to have been comprised in the maxim, "*Dies dominicus non est juridicus*;" and in the leading case of *Swann v. Broome*, 3 Burrow 1595, it was held that Sunday could not be considered, in any sense, a day for the transaction of judicial business, that it was *dies non juridicus*: for which conclusion Lord MANSFIELD relied mainly upon a canon of the sixth century, which ordained that causes should not be judged upon Sunday; and this canon, his lordship informs us, had been adopted by the Saxon kings, and afterwards confirmed by William the Norman and Henry II. In *Mackally's Case*, 9 Co. 66 b, it was "resolved that no *judicial* act ought to be done on that day; but ministerial acts may be lawfully executed on the Sunday;" and in another old case, *Comyns v. Boyer*, Cro. Eliz. 485, the assertion was made that the holding of a fair for the sale of goods on Sunday was good and lawful. From these decisions we may reasonably infer that, at the common law, all acts which were lawful to be done upon another day, might be performed upon Sunday, unless they were acts of a judicial nature; and the best proof of this is to be found in the fact that it was ever thought necessary to pass an Act of Parliament prohibiting the transaction of business and the engaging in worldly employments on the Sabbath day; for had it been otherwise, the suggestion of such a statute would have been uncalled for.

That the law prior to A. D. 1676 was as above stated, has been so unanimously agreed upon and so frequently recognised as to render a citation of authorities unnecessary, and we shall, therefore, proceed to consider the changes made in the law of the passage of the Act of the 29th Charles II., ch. 7, familiarly known as the Lord's day Act.

This statute provided as follows: "For the better observation and keeping holy the Lord's day, commonly called Sunday, be it enacted, that no tradesman, artificer, workman, laborer or other person whatsoever, shall do or exercise any worldly labor, business

or work of their ordinary callings upon the Lord's day (works of necessity and charity only excepted), under a penalty of five shillings."

Although nothing is said in the statute with regard to the effect which it should have upon an act done or a contract made in violation of its provisions, yet it was early decided that where any act is forbidden under a penalty, that act as well as a contract to do that act, is void, to the extent that the courts will not lend their aid to the enforcement of any compact made in violation of the law or looking to a violation of it: *Comyns v. Boyer, supra*; *Drury v. Defontaine*, 1 Taunt. 136; *Bartlett v. Viner*, Carth. 252; 5 Viner Abr. 507; *Mitchell v. Smith*, 1 Binn. 118, 4 Yeates 84.

Much of the benefit, however, which it was manifestly hoped and intended by the Parliament should be derived from this statute, was precluded and lost through the interpretation given it by the judges, who held that it applied to the process and proceedings of the courts and to the dealings in course of trade, but not to the private transactions of individuals; and also, that a man might lawfully engage in any worldly employment or business on the Sabbath day, provided it be not within the scope of *his ordinary calling*; thus a deed dated or even executed and delivered on that day is, in England, perfectly good and binding upon the parties, for the execution of deeds does not come within the "ordinary calling" of any man: 2 Prest. on Conveyancing 362; and in *Drury v. Defontaine, supra*, it was decided that the sale of a horse on Sunday was not void, such sale not being within the ordinary calling of the plaintiff. Again, in *Rex v. Whitnash*, 7 B. & C. 596, a contract of hiring made on Sunday between a farmer and a laborer was held to be valid, since it could not be held that it was the ordinary calling of a farmer to hire laborers. And in *Peate v. Dicken*, 1 C., M. & R. 422, 5 Tyrw. 116, an attorney had upon Sunday entered into an agreement for the settlement of his client's affairs, thereby rendering himself personally liable, and it was held, that in this he was not acting in the exercise of his ordinary calling, hence the agreement was binding upon him. The cases of *Fennell v. Ridler*, 5 B. & C. 406, and *Norton v. Powell*, 4 Man. & G. 42, were determined upon the same principle: in the former, a horse-dealer was debarred the privilege of maintaining an action upon a private contract for the sale and warranty of a horse bought by him on a Sunday, because buying horses was his usual employment; in

the latter case, one tradesman gave to another, upon that day, a guarantee for the faithful services of a traveller, and it was held that his guarantee was valid, since in making the same he was not acting within the line of his ordinary calling.

These few cases, illustrative of the exception which legal shrewdness quickly discerned in the British statute, and which judicial scrupulosity recognised and sustained, have been here referred to in order that the difference between that act and those in force in the United States might be brought to notice. In most, if not all of the states, statutes have been passed in very nearly the exact words of the 29 Charles II., ch. 7, save that the clause "of their ordinary callings" has been omitted. In a very few of the states, as, for instance, in Rhode Island and Georgia (*Allen v. Gardiner*, 7 R. I. 22; *Sanders v. Johnson*, 29 Ga. 526), this qualification has been retained. But, generally speaking, under our acts, all business and worldly employments upon the Sabbath day (works of necessity and charity only excepted) are prohibited.

Contracts affected by these statutes may be divided into, first, those made upon the Sabbath, for the doing of some act or the transaction of some business then or at another time; second, those made upon a secular day, by which one or both of the parties undertake to engage in some worldly employment upon a Sunday.

I. There is an uniformity of decision, both in England and in this country, that contracts merely secular, made on Sunday, to take effect from the moment they are concluded, are void as to all parties upon whom there may attach guilt of a violation of the statute in the negotiation of the same, and there can be had upon them no recovery by the persons thus culpable; which rule applies to *executory contracts* of every description, whether express or implied, by specialty or parol. For, when parties have on the Sabbath day entered upon a business transaction and there has been made a contract for either a sale or exchange of property, or for the rendering of service, such contract is absolutely void, inasmuch as no action can be maintained upon the unexecuted portions of it: *Morgan v. Richards*, 1 Brown (Pa.) 171; *Sumner v. Jones*, 24 Vt. 317; *O'Donnell v. Sweeney*, 5 Ala. 467; *Adams v. Hamell*, 2 Doug. (Mich.) 73; *Dodson v. Harris*, 10 Ala. 566; *Saltmarsh v. Tuthill*, 13 Id. 390; *Smith v. Bean*, 15 N. H. 577; *Sellers v. Dugan*, 18 Ohio 489; *Murphy v. Snipson*, 14 B. Mon. (Ky.) 419; *Link v.*

Clement, 7 Blackf. (Ind.) 479; *Reynolds v. Stevenson*, 4 Ind. 619; *Heller v. Crawford*, 37 Id. 279; *Whelden v. Chappel*, 8 R. I. 230. And, as was said by GRAY, J., in *Cranston v. Goss*, 107 Mass. 441, if a chattel has been sold and delivered on the Lord's day without payment of the price, the seller cannot recover either the price or the value; not the price agreed on that day, because the agreement is illegal; not the value, because whether the property is deemed to have passed to the defendant or to be held by him without right, there is no ground on which a promise to pay for it can be implied. In the state of Ohio, however, where the prohibition of the statute is against "common labor," it has been held that it is not unlawful merely to make a contract on Sunday; hence an agreement for the sale of land, entered into upon that day, was there considered valid: *Bloom v. Richards*, 2 Ohio St. 387. But in Indiana, where the statute is exactly like that of Ohio, all contracts made on Sunday have been held to be void: *Link v. Clemens*, *supra*; *Reynolds v. Stevenson*, *supra*. So that Ohio may be considered as standing alone in this doctrine.

But a contract to be rendered void, by reason of its having been made on Sunday, must be of a nature purely secular; otherwise the statute has no effect whatever upon it, and it will have the same binding force as if entered into at another time. The validity of a contract of marriage, for instance, may not be questioned because the parties agreed upon the same on the Sabbath or because the marriage itself was solemnized upon that day. For marriage has always been looked upon as a contract not purely civil, but as having connected with it something of a religious character; although, for particular purposes, it has been regarded as a contract purely secular: *Commonwealth v. Nesbit*, 10 Casey 409. But a marriage contract, entered into on Sunday, whereby the husband stipulated that his wife should receive a certain portion of his estate after his death, did not meet with the same ready approval; for such an agreement seemed to the judges to be of rather a worldly character, the court below holding it to be entirely void, and the Supreme Court being equally divided upon the question of its validity: *Gangwere's Estate*, 2 Harris 417.

A note given upon the Sabbath cannot be recovered upon by the payee, although his goods, for the price of which the note was given, have been delivered to the promisor. In *Kepner v. Keefer*, 6 Watts 231, which is a ruling case upon the question, it was decided

that the giving of a promissory note upon the Sabbath is "business" and "worldly employment," and since such is prohibited by the statute, the note is void and will not be enforced by the courts. The same doctrine is enunciated in *Towle v. Larrabee*, 26 Me. 464; *Hilton v. Houghton*, 35 Id. 143; *Allen v. Deming*, 14 N. H. 133; *Lyon v. Strong*, 6 Vt. 219; *Lovejoy v. Whipple*, 18 Id. 379; *Robeson v. French*, 12 Metc. (Mass.) 24; *Clapp v. Smith*, 16 Pick. 247; *Varney v. French*, 19 N. H. 233; *Bloom v. Richards*, 2 Ohio St. 387; and *Cranson v. Goss*, 107 Mass. 441.

Where, however, a contract is made on Saturday and a note given as consideration of the same upon Sunday, the payee may recover by bringing his action on the contract; but he cannot, in an action upon the note, prove the contract and recover upon it: *Sayre v. Wheeler*, 31 Iowa 112; *Kepner v. Keefer*, 6 Watts 231.

As a note or draft made upon Sunday is void and there can arise upon such instrument no liability, so the notice of protest required to fix the responsibility of an endorser, if given on that day, will be of no effect. In *Rheem v. Carlisle Deposit Bank*, 76 Penna. St. 132, the defendant in error was the holder of a draft upon which was plaintiff's endorsement, and having received notice of the protest of the same, sent one of their officers on Saturday night to notify plaintiff of the fact. Failing to meet him then, the officer called at his house on Sunday and handed him a sealed envelope in which was the notice, at the same time telling him what it contained; plaintiff threw it into a drawer and did not see it again for several weeks: *Held*, that the service of the notice was unlawful and the endorser was not bound by it; and, further, that plaintiff was not obliged to receive the notice on the day on which it was served nor to read it on Monday, although the service then would have been in time; nor could the receipt of the notice on Sunday in silence be construed as a waiver of the irregularity in service.

Whether there may be a subsequent ratification, rendering valid a compact void because of its having been entered into on the Lord's day, has been much disputed, the decisions upon the question being by no means harmonious. The English case of *Williams v. Paul*, 6 Bing. 653, decided that a party who purchased cattle on Sunday, kept them and afterwards promised to pay for them, was liable to an action upon a *quantum meruit*; which doctrine was sustained in Vermont, Indiana, Oregon and Iowa: *Adams v. Gay*, 19 Vt. 358; *Sumner v. Jones*, 24 Id. 317; *Bosley v. McAllister*, 13 Ind.

565; *Smith v. Case*, 2 Or. 190; *Harrison v. Colton*, 31 Iowa 16. But in all of the states in which this question has since arisen and also in England, the principle above announced has been spoken of with disapproval, and by a number of decisions the doctrine of *Williams v. Paul* has been discarded and overruled; so that the rule may be stated generally, that these contracts follow the law of all other void contracts and are incapable of any recognition or confirmation that would render them valid: *Kountz v. Price*, 40 Miss. 341; *Myers v. Meinrath*, 101 Mass. 366; *Ryno v. Darby*, 20 N. J. Eq. 231; *Finn v. Donahue*, 35 Conn. 216; *Pate v. Wright*, 30 Ind. 476; *Bradley v. Rea*, 103 Mass. 188; *Day v. McAllister*, 15 Gray 443; *Pope v. Linn*, 50 Me. 83; *Ladd v. Rogers*, 11 Allen 209; *Hazzard v. Day*, 14 Id. 487; *Reeves v. Butcher*, 2 Vroom 224.

The effect of the statute upon a sealed instrument is the same as upon all other contracts, and hence a deed executed and delivered upon the Sabbath is worthless: *Love v. Wells*, 25 Ind. 503; and a bond actually made and delivered upon that day, cannot be sued upon: *Fox v. Mensch*, 3 W. & S. 446; *Pattee v. Greely*, 13 Metc. (Mass.) 284. But in Ohio it has been held that a deed made on Sunday is valid: *Swisher v. Williams*, Wright 754. This ruling, it will be noticed, is in accord with the doctrine already referred to, which has been upheld in that state, that a contract made on that day is lawful and binding.

Unless, however, the compact or that portion of it upon which a recovery is sought, be completed upon a Sunday, so that as an executory contract no other arrangements or acts are necessary to constitute it an entire transaction, such contract will not be affected by the statute; as where the *terms* of a contract only are agreed upon on Sunday and subsequently executed, it may be enforced: *Butler v. Lee*, 11 Ala. 885; see also Add. on Contracts 111; *Tucker v. Mowry*, 12 Mich. 378; *Merrill v. Downs*, 41 N. H. 72; *Smith v. Foster*, Id. 215; *Harris v. Morse*, 49 Me. 432. A bond signed on Sunday, but not delivered until the following day, is perfectly good; for delivery is of the essence of a deed and it takes effect only from the delivery: *Commonwealth v. Kendig*, 2 Barr 451; and a promissory note signed on Sunday, but not delivered until another day, is valid: *Goss v. Whitney*, 24 Vt. 187; *Lovejoy v. Whipple*, 18 Vt. 379; *Clough v. Davis*, 9 N. H. 500; *Hilton v. Houghton*, 35 Me. 143; *Hill v. Dunham*, 7 Gray 543;

Barren v. Pettes, 18 Vt. 385. This doctrine has also been affirmed in *Sherman v. Roberts*, 1 Grant 261, where a contract of guaranty, signed upon Sunday, was not delivered until next day, and it was held that the mere signing without delivery could not be allowed to affect it.

The execution of a will upon the Lord's day has, upon the same principle (among other reasons), been declared to be a lawful act; "for," as was said in *Breitenman's Appeal*, 5 P. F. Smith 183, "a will does not take effect but from the death of the testator, and hence this must be regarded in some light as those cases in which an instrument is executed on Sunday, but not delivered till afterwards;" and see *George v. George*, 47 N. H. 27; *Bennett v. Brooks*, 10 Allen 118.

Another question which has arisen is, whether an innocent party seeking the enforcement of a contract made in violation of the Sunday law, shall be made to suffer a denial of his remedy on account of such unlawful act, though he knew nothing of the wrong thus committed, or, if he did, was powerless to prevent it. The weight of authority, we think, authorizes an answer to this question in the negative, although the decisions upon the point are somewhat discordant. The case of *Cranson v. Goss*, 107 Mass. 441, determined the right of an innocent endorsee of a negotiable instrument put in circulation on Sunday, to maintain an action upon the same; provided, of course, he took it in good faith, before maturity and for a valuable consideration; and in *Knox v. Clifford*, 38 Wis. 101, the defendant, who had made and put in circulation a promissory note, was held to be estopped, as against an innocent holder, from showing that it was made on Sunday. Upon the same principle, a municipal officer will not be permitted to shield himself from responsibility arising upon his official bond, by alleging that it was executed upon the Sabbath; for the parties to be protected by the bond are innocent of the violation of the law committed in the execution and delivery of it, and they should not be compelled to suffer from the illegality of an act over which they had no control; otherwise, officers might be induced to execute their official bonds on Sunday by design, for the express purpose of shielding themselves from responsibility, and thus reap advantage and benefit from their own wrong and fraud: *Commonwealth v. Kendig*, 2 Barr 448. The doctrine is also applied in cases in which the consummation of a transaction takes place upon Sunday, yet the party

seeking to enforce the rights growing therefrom had ceased all *his* agency in the matter before that day; as where a case was submitted to arbitrators on Saturday night, who made up their award on Sunday morning, it was held that assumpsit might be maintained on the award, for the plaintiff had no agency in that portion of the transaction by which the law was violated, and hence should not be denied relief for the fault of others: *Sargent v. Butts*, 21 Vt. 101; *Richardson v. Kimball*, 28 Me. 475. In *Hadley v. Snerily*, 1 W. & S. 477, the plaintiff had left a horse at a tavern for sale, the defendant came there upon Sunday, said he had purchased the horse and then took him away. The case came before the Supreme Court upon a question as to whether the burden of proof, where the defendant alleges the contract to have been made in violation of the Sunday law, should be put upon plaintiff, as the lower court had done in this case; but the judge, in delivering the opinion of the court, seemed to rely upon the doctrine of the right of an innocent party to recover, in saying, "Can it be that the defendant by going on Sunday and taking away plaintiff's horse, and because it was Sunday, got the horse for nothing? The only act done on that day was by him who now seeks to take advantage of it. Zeal for religious observance of the Sabbath is commendable, but it shall not avail a defendant who has possession of property without paying for it, unless he shows that plaintiff has violated some law, human or divine."

The question whether one party is answerable to another *in tort* for damages received while the person seeking redress was acting in violation of the Lord's day Act, has been frequently before the courts. In the majority of instances, the time at which an injury was received or a wrong done would not be permitted to affect the responsibility of defendant for the same, though in the case of *Johnson v. Irasburg*, 14 Am. Law Reg. N. S. 547, s. c. 47 Vt. 28, it was *held* that a person travelling through a town upon the Sabbath, unless such travelling were prompted by motives of charity or necessity, could not maintain an action against its authorities for any damage he may have sustained through defects in its highways; see also, *Bosworth v. Swansey*, 10 Met. 365; *Jones v. Andover*, 10 Allen 18, in all which cases recovery was sought from municipal corporations. But this doctrine has not been applied in actions brought against private corporations or individuals for damage received by plaintiff while actively engaged upon a Sunday: *Carroll v. Railroad*

Co., 65 Barb. 32; *Mahoney v. Cook*, 2 Casey 342, in the latter of which cases it was said that the law relating to the Sabbath defined a duty of the citizen to the *state* and to the *state only*; and hence it may be very proper for the state to refuse a remedy against itself or against any of its sub-divisions when an injury arises from bad roads to one who is unlawfully travelling upon the Lord's day; but that it would lend a very doubtful assistance to morality for the law to allow one offender to set up against another the plea that he too is a public offender, and that he, therefore, should not be allowed to recover for a wrong done him by an individual of the same class. On this point see the note to *Johnson v. Irasburg*, 14 Am. Law Reg. N. S. 553.

All the foregoing remarks concerning contracts are intended to be applied to those of an *executory* nature only, for the principles set forth have no application to agreements already executed by the parties themselves, which are perfectly good and binding, though made on the Sabbath; the doctrine of the law being that the courts shall not, under any circumstances, lend their assistance to parties who have violated the statute in the making of a contract, to enable them to *enforce* the executory stipulations of the same; but at the same time, a contract made and executed in all its provisions will not be set aside by them, because of its having been entered into on the Sabbath. The law will in all such cases leave the parties in the position in which they have placed themselves, whether vendor or purchaser suffer thereby; for it has been frequently laid down as a principle, that a contract not void at common law, nor expressly avoided by statute and which has been fully executed, binds the parties, although it was made on Sunday; thus in *Shuman v. Shuman*, 3 Casey 90, a deed had been signed and acknowledged on a previous day, but delivered on Sunday and it was held that such delivery was good and sufficient to pass the title, for delivery of the deed is the consummation of the transaction through which the title is transferred, and when this has been done, the contract is fully executed and no relief from the illegal transaction can be had in the law; see also, *Myers v. Meinrath*, 101 Mass. 366; *Chestnut v. Harbaugh*, 78 Penna. St. 476; *Baker v. Lukens*, 11 Casey 146; *Jordan v. Moore*, 10 Ind. 386; *Greene v. Godfrey*, 44 Me. 25.

II. With regard to contracts made upon a secular day, for the doing of some act or engaging in some business upon the Sabbath,

little need be said, since all such compacts have, in most of the states, been considered invalid, unless coming under one of the exceptions of necessity or charity. There can be no recovery upon such agreements, although the work stipulated for has been thoroughly performed. In *Watts v. Van Ness*, 1 Hill (N. Y.) 76, plaintiff had entered into a contract for labor to be performed on Sunday as clerk for an attorney, and, having brought suit for the recovery of compensation for his services, it was held that none could be obtained upon a contract thus violative of the statute. To the same effect is *Slade v. Arnold*, 14 B. Monroe 287. It has also been decided that a contract to publish an advertisement in a newspaper issued on Sunday is unlawful and void, and recovery for the same cannot be had at law, although the advertisement may have been published: *Smith v. Wilcox*, 19 Barb. 581; so too of an agreement for the sale of goods to be made on that day, it is utterly void: *Banks v. Wertz*, 13 Ind. 203. And even in the case of a party hired by the month, the hireling is not bound to work on Sunday, if the occupation be such as the law prohibits; and an express agreement to perform on that day work which is a violation of the statute, is void; as a contract to drive a public conveyance on Sunday: *Johnson v. Commonwealth*, 10 Harris 102; so also, a contract made on Saturday for the hire of horses to be used on Sunday in an excursion of pleasure, was held to be a violation of the law and of no validity: *Berrill v. Smith*, 2 Miles 402. The aid of the law cannot be invoked for the carrying out of any compact, the execution of which necessarily involves a breach of the act.

What are "works of necessity and charity," as distinguished from the "worldly employments" and "business" forbidden? A reference to a few of the cases in which this question has been decided will best serve to illustrate the distinction as upheld by the courts. The necessity here contemplated is not a physical and absolute necessity, but a moral fitness and propriety under all the circumstances of each particular case. Such is the repair of a defect in a highway endangering the public safety: *Flagg v. Inhab. of Millbury*, 4 Cush. 243. In *Pate v. Wright*, 30 Ind. 476, it was held that the delivery of a quantity of flour on board a steamboat on Sunday, in order to avoid the liability of delay in getting it to market, occasioned by the danger of the closing of navigation, was not a work of necessity requiring a performance on that day. But

in Ohio it has been decided that such an exigency would constitute a case of necessity excusable under the statute: *McGatrick v. Wason*, 4 Ohio St. 566. The hiring of a horse and carriage on Sunday is not rendered legal as a matter of necessity or charity, by proof that it was hired for the purpose of bringing home a person who had been attending a religious meeting: *Tillock v. Webb*, 56 Me. 100. In *Jones v. Hughes*, 5 S. & R. 302, it was held that traveling on Sunday does not, in a legal sense, fall within the description of worldly employments forbidden; and *Commonwealth v. Nesbit*, 10 Casey 409, decided that the terms "business" and "worldly employments" do not include such household or family work as pertains to the duties, necessities and comforts of the day, hence contracts of hiring for this work are valid; as the employment of a servant to drive the private carriage of his master on Sunday as well as on other days. The hiring of a carriage by a young man to visit his father, has been regarded in Pennsylvania as the performance of a filial duty and cannot be brought within the prohibition of the act; therefore, the party so doing was held responsible as a bailee for hire for damage happening to the carriage while in his possession: *Logan v. Mathews*, 6 Barr 417. In *Breitenman's Appeal*, 5 P. F. Smith 183, it was also suggested that the making of a will on Sunday, by a man eighty-five years of age, though in his usual health at the time, might be considered a work of necessity; and *Hvidekoper v. Cotton*, 3 Watts 59, decided that a judgment entered on a verdict which was delivered on Sunday morning would not be erroneous, the justice remarking that "it would be much more sinful to keep the jurymen from Saturday night until Monday morning locked up without food, than to permit them to give a verdict, go home and attend public worship." In *Hooper v. Edwards*, 18 Ala. 280, it was held that if the exigency of the case be such as to render it necessary that a creditor, in order to save his debt or procure indemnity against liability, should contract with the debtor on Sunday, such contract would not be void. This ruling, however, we regard as contrary to the spirit of the law, since the *necessity* which in this case was permitted to excuse the transaction of business on Sunday, namely, the prevention of a loss of money, might be urged in very many of the instances in which parties engaging in worldly employments on that day in the same state, have been held to be unlawfully occupied.

A few other decisions of interest have been rendered upon ques-