COMMENT.

Considerable discussion and feeling has been aroused by the contention which has been carried on in the courts during the last summer concerning the Sunday opening of the fair. By act of August 5th, 1892, Congress donated $2,500,000 to the World's Columbian Exposition with the provision that, if the gift was accepted, a rule should be passed closing the fair on Sunday. The gift was accepted and the rule adopted, but afterwards the Fair Commission voted to keep open on that day. An injunction to prevent this was sought in the United States Circuit Court and obtained, but on appeal to the Circuit Court of Appeals the judgment was reversed and the injunction denied. The Circuit Court were of the opinion that this Act of Congress constituted a gift upon condition in the nature of a trust for charitable uses of which a Court of Equity could compel specific performance by enjoining any breach thereof. But the Court of Appeals held that, as it had not been shown that the United States would suffer any damage, or that the corporation would not be able to refund the money, there was an adequate remedy at law for any breach of the condition in the gift. Until it had been proved that this remedy had been exhausted, equity would not interfere. The fair has consequently remained open on Sundays, and up to this time we have not heard that the United States would attempt to recover its appropriation.

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At the opening of the Supreme Court of Massachusetts on September 28, a breach of promise suit which was attracting public notice very generally came up for trial. Reporters from the different newspapers of Boston were present to get an account of the proceedings. Judge Barker, who was presiding, directed the clerk to enter the following order: "*Van H.* v. *Morse.* Ordered in open court by the presiding justice that no report of the above entitled case or comment thereon be made in the public newspapers till the conclusion of the trial thereof, and that notice of this order be given to the newspapers of the city of Boston." This order being without precedent in Massachusetts, excited

considerable criticism; and the newspapers, fearing to render themselves liable for contempt of court, refrained from publishing accounts of the trial. A similar order was given last January in San Jose, Cal., in a divorce suit. The editor of a local paper ignored the order and was fined one hundred dollars for contempt of court. On the appeal of the case the Supreme Court of that State decided that the editor had a right to publish what he chose of the proceedings, basing their decision on the right of free speech guaranteed in the constitution, and holding that what a man may speak he may write and publish, and that this is the freedom of the press, a liberty stopping only where it invades another's rights.

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An ordinance of the city of Chicago, resembling very closely an act of the general assembly of Illinois, prohibited book making and pool selling, with the proviso that it should not apply "to the actual enclosure of fair or race track associations that are incorporated under the laws of the State." The validity of this ordinance was tested in the case of *City of Chicago* v. *Brownell*, 34 N. E. Rep. 595. The defendant, who was fined for a violation of the ordinance in accordance with its provisions, contended, through his counsel, that it was void because it was not impartial, authorizing pool selling and book making in certain places and prohibiting it in others. The decision of the court was, that forbidding certain acts in one place does not authorize them in another, and the defendant was deprived of no right by the ordinance, as the business in which he was engaged was unlawful before it was passed, and hence it did not operate unfairly against him. Its terms made no distinction between persons, but between places only, and even if it were admitted that it sanctioned book making and pool selling, if any one could engage lawfully in that business at the times and in the places excepted, he could.

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The case of *People* v. *Peck, et al.*, 34 N. E. Rep. 347 (N. Y.), is interesting on account of the publicity given it during the political campaign of 1892. It is the duty of the labor commissioner of New York to collect statements relative to the departments of labor, and he is given the power to compel, when necessary, their production. Commissioner Peck was indicted for destroying circulars issued by him, together with answers to them. The code of New York makes it a crime to destroy papers filed or deposited

with a *public* officer. The indictment was demurred to on the ground that the answers to the circulars were the private papers of the parties sending them, and that they were confidentially given to the commissioner. The court decided that the labor commissioner is a public officer and that the statistics which he collects are not for his own private use, but for that of the legislature and of the public, the main purpose of compiling them being to base upon them legislation in regard to working men. Since he is a public officer it follows that it is a crime for him or anyone else to destroy papers filed with him.

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Since women have begun to enter the professions it has become a matter of interest what attitude the courts of the different States would take with respect to their admission to the bar. In many, the question whether they would be allowed to practice in the courts as attorneys has already been decided. In some, such as Massachusetts and Illinois, it has been held that without an express grant of the privilege it cannot be conferred on them, while in others, Colorado and Connecticut, for example, it has been declared by the courts that, in the absence of constitutional or statutory inhibition, women may be admitted to the bar, although such an event was not contemplated either in the constitution or the statutes. *In re Leach*, 34 N. E. Rep. 641, disposes of the question for Indiana. In this case, the petitioner, although satisfying all the requirements of age, moral character and sufficient knowledge of law, was refused admission on account of sex. The Supreme Court, however, reversed the decision of the lower court, and held that, as neither the constitution nor any statute limited the right of membership of the bar to men only, but merely assured it to them, and as there was no expression in the common law excluding women from the profession, they are entitled to admission, especially since this is in accord with the provision of the constitution forbidding any State to "make or enforce any law which shall abridge the privileges or immunities of a citizen."