

Volume 12 | Issue 3

---

1961

# Negotiable Instruments

Fletcher R. Andrews

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

---

## Recommended Citation

Fletcher R. Andrews, *Negotiable Instruments*, 12 W. Res. L. Rev. 543 (1961)  
Available at: <https://scholarlycommons.law.case.edu/caselrev/vol12/iss3/20>

This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

six o'clock, p. m., and seven o'clock, a. m., and also on Sundays. The owner conscientiously observed a day other than Sunday as his Sabbath and therefore urged that the ordinance in this respect conflicted with section 3773.24 of the Revised Code<sup>50</sup> and was unconstitutional as applied to the plaintiff's operation. The owner also relied on *City of Cincinnati v. Correll*<sup>51</sup> wherein the supreme court had struck down an ordinance limiting the hours during which a barber shop might remain open for business, for the reason that it bore no real and substantial relation to the health, safety, morals or general welfare of the public, and therefore did not represent a valid exercise of the police power.

With respect to these issues the court found little difficulty in holding for the city and against the junk yard operator. A junk yard, unlike a barber shop,<sup>52</sup> "necessarily involves noise that will disturb those nearby."<sup>53</sup> The ordinance does not go beyond reasonable limits in prohibiting this. Likewise, it does not prohibit the owner of this junk yard from engaging in work on Sunday. It merely prohibits him from operating *this* junk yard on Sunday.

Finally, while applicant did not directly succeed to the previous owner's junk yard business, it is the property use which is protected against abridgement, not that of any particular owner or operator thereof.

SAMUEL SONENFIELD

## NEGOTIABLE INSTRUMENTS

### FORGED CHECKS: RECOVERY OF PROCEEDS

In *Kares Construction Company v. Associates Discount Corporation*,<sup>1</sup> the name of the drawer of a check was forged. Defendant became the holder of the check, and the drawee bank paid him. Plaintiff, the drawer, sued defendant for the amount of the check, obviously on the theory that defendant was not entitled to the proceeds. The court held for the defendant. Inasmuch as the drawee bank's payment on a forged

50. "No person . . . over fourteen shall engage in common labor or open or cause to be opened, a place for transaction of business . . . on Sunday. This section . . . does not extend to persons who conscientiously observe the seventh day of the week as the Sabbath, and abstain thereon from doing things prohibited on Sunday."

51. 141 Ohio St. 535, 49 N.E.2d 412 (1943).

52. Apparently there was involved no problem of barber shop quartet singing, which reminds the author of the story about the four deaf mutes in the saloon, but that, as Holmes used to tell Watson about the giant rat of Sumatra, "is a story for which the public is not yet ready."

53. If noise and disturbance is wrong in a residential district at night and on Sunday, why is it legal at other times?