In Wilson v. Tucker, the Court refused to discharge the prisoner, but he was directed to bring an action for false imprisonment, and so in Lidford v. Thomas, 6 Mod. 96, where the defendant was taken without any warrant on a Sunday and kept locked up till Monday morning, and then a writ got out, the Court agreed to grant an attachment against the officer, but not to discharge the prisoner, as he might have his action; and a case is mentioned in Hetley, 19, where an attachment was granted against one for arresting a party on Christmas-day. However, the modern practice was otherwise. In Wells v. Gurney, 8 B. & C. 769, a party had been arrested on a Sunday, by the contrivance of the plaintiff's attorney, on a charge of assault and battery, for the purpose of effecting his arrest on civil process, detained until Monday in custody, and then arrested on the civil process. The Court ordered him to be discharged out of custody, to bring no action if the plaintiff's attorney should pay the costs within two days. And Bayley J. observed, that as the arrest on civil process would not have been good on Sunday, the arrest on that process on the Monday, effected by the previous arrest on criminal process and detention till Monday, ought not to be allowed. If contrivances to make an arrest are used, they must be such as may be lawfully used in the execution of civil process, and an arrest by criminal process is not a lawful contrivance.

In Loveridge v. Plaistow, 2 H. Black. 29, a *capias* was returnable in three weeks of Easter on Sunday, April 29, or Monday, April 30, at eight o'clock in the morning. The defendant was arrested after the writ was returnable and detained till ten o'clock on Monday morning, when the plaintiff renewed the writ. The Court considered the detainer unlawful. And the case is always cited for the point, that an officer cannot detain a party whom he has arrested after the writ is returnable, though for the shortest time, till the writ be continued. And the reporter adds to the case, that a writ returnable on Sunday must be executed on Saturday at latest.

Escapes.—The Statute, however, prohibits *original* arrests on Sunday only, and so it was held in Parker v. More, 2 Salk. 626; S. C. 6 Mod. 95; 2 Ld. Raym. 1028, that a prisoner who has escaped may be retaken on Sunday, either by the officer on fresh pursuit, or by virtue of an escape warrant, which is in the nature of a fresh pursuit, for it is not original process, and a commitment is only the old commitment continued down, see Stat. 5. Ann. c. 9, s. 3; but it is otherwise of voluntary escapes, Featherstonhaugh v. Atkinson, Barnes, 373, recognized in Atkinson v. Jameson, 5 T. R. 25. In the latter case, the defendant having been discharged, the sheriff not knowing that there was a detainer in his office at the suit of another plaintiff, was on the following Sunday arrested in the latter suit, and it was held that this was an original taking on Sunday, as the defendant never was in the Sheriff's custody in that action before Sunday. But in Samuel v. Buller, 1 Exch. 439, a defendant in custody on a *ca. sa.* received on Saturday an order from the creditor for his discharge, which on being shewn to the gaoler was forwarded by him to the sheriff, who lived some way off. On the Sunday following, a warrant of detainer, founded on a *ca. sa.* issued the previous day, was served on the gaoler, who thereupon detained the defendant, and it was held that the defendant had no right to his discharge, as the sheriff was