

The Sentinel

OF CHRISTIAN LIBERTY

VOL. XVIII

NEW YORK, AUGUST 6, 1903

NO. 32



I believe legislation to enforce Sunday observance is not only detrimental to the best interests of society, but is an improper and unwarranted interference with the great Protestant right of private judgment in all matters pertaining to religion. . . . The proper functions of the state do not include the ascertainment and declaration of theological truth and its enforcement upon the people. Religion is a matter for the individual conscience.—Hon. John S. Ewart, K. C., Winnipeg, Manitoba, October 26, 1902.

Everybody should enjoy complete liberty, provided that liberty does not interfere with the liberty and civil rights of others. To force people to observe Sunday is not protection of civil rights; it is interference with civil rights in obedience to religious sentiment. By this ["Lord's Day"] bill we claim jurisdiction in religious matters. I believe it is not our duty here to occupy ourselves with religion. Each individual has the right to worship God as he thinks proper, provided he does not interfere with the liberty of anyone else.—Hon. G. Amyott, M. P., in the Canadian Parliament, May 30, 1894

The Sentinel

OF CHRISTIAN LIBERTY

Set for the defense of human rights, especially the rights of conscience. The only periodical in the United States especially devoted to the maintenance of the Christian and American principle of complete separation of church and state. The Sentinel is not a periodical of abstractions and speculation; it discusses live issues that deeply concern every individual.

JOHN D. BRADLEY, Editor.

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A. T. JONES, A. G. DANIELLS, M. C. WILCOX,
L. A. SMITH, C. P. BOLLMAN.

We believe in the religion taught and lived by Jesus Christ.

We believe in temperance, and regard the liquor traffic as a curse to society.

We believe in supporting civil government and submitting to its authority.

We believe that human rights are sacred, and that they indissolubly inhere in the moral nature of the individual.

We deny the right of any human authority to invade and violate these inalienable rights in any individual.

Therefore we deny the right of any civil government to legislate on matters of religion and conscience.

We believe it is the right, and should be the privilege, of every individual to worship God according to the dictates of his own conscience, free from all dictation, interference, or control on the part of civil government or any other external authority; or not to worship at all if he so chooses.

We also believe it to be our duty, and no less the duty of all others, to oppose religious legislation and all movements tending toward the same, to the end that all the people may freely enjoy the inestimable blessing of liberty, which is theirs by virtue of the unbounded wisdom and beneficence of the Author of their being.

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Is Relief from Sunday Legislation Only for the Influential?

At Philadelphia a few months ago in cases against the publishers of great newspapers a magistrate in an exhaustive opinion held that the Sunday law of Pennsylvania was too indefinite to be enforced or to be valid as a statute. In Massachusetts a few weeks ago in a case where the members of a club that was no doubt representative of society and wealth were affected, a city solicitor promptly ruled that golf playing was not in violation of the Sunday law. And now in a case where transportation companies are interested and affected the court of last resort has not hesitated to pronounce invalid the Sunday legislation of a great Province. This is all good, but why is it that such rulings and decisions are not made in many other cases in which they would be just as proper? If the Sunday law of Pennsylvania is too indefinite for enforcement when great newspapers are involved, then it is too indefinite for enforcement when anything or anybody, no matter how humble and insignificant, is involved. But the arrest and fining of shopkeepers and others in Philadelphia and elsewhere in Pennsylvania proceeds right along under the Sunday law. If golf playing on Sunday is not an infraction of the Massachusetts Sunday law, then other equally harmless sports that are more popular with the masses than golf, and for indulging in which on Sunday there are frequent arrests and finings, are also not illegal. Regarding the last instance, we cannot help but query mentally whether Ontario's Sunday legislation

would have been pronounced invalid if only the seventh-day observers or some other such uninfluential parties had been concerned. We do not mean to imply that the decisions in these instances were due in any degree to improper motives and influences, but nevertheless there seems to be reason to believe that the chances are much better that a ruling against Sunday legislation and enforcement will be made where the great and influential are involved than where the humble and uninfluential are involved.

✦

"Lord's Day" Alliance Disappointed, but Hopeful

The Ontario Sunday-enforcement leaders are evidently determined to maintain a bold front in the face of the defeat they have sustained, and to surrender nothing that they can possibly retain. And more than that, in some way to regain as quickly as possible what they have lost. Since what is said elsewhere regarding the matter was placed in type we have seen a Toronto dispatch which thus speaks for them:

The members of the Lord's Day Alliance, while naturally disappointed at the judgment delivered by the Privy Council, declaring the Ontario Lord's Day Act *ultra vires* in its present form, are not disposed to regard the judgment as one militating against them to any great extent. The effect of the decision may be that steamboat excursions may be run on Sunday, but the Alliance claim that, independent of the Lord's Day Act, there is enough legislation still in existence in the Province to prevent the running of Sunday street-cars on lines which have hitherto been denied that privilege. Chief Justice Armour, while declaring that the Lord's Day Act was *ultra*

vires, stated also that chapter 104 of the consolidated statutes of Upper Canada was still in force, having never been repealed by competent authority. Section 1 of this act is identical with section 1 of the Lord's Day Act. This section is sufficient to accomplish much, and perhaps all that the Lord's Day Alliance hoped to gain by the passing of the later piece of legislation. . . .

The members of the Alliance do not feel disposed to admit that there is any need to abandon hope for subsequent legislation by the provincial legislature along the same line. . . . The general question of the Province's jurisdiction is still open. The Alliance members see in this ground for belief that the main provisions of the act, if framed in different shape, would be found able to stand even the scrutiny of the supreme tribunal. In support of this they point to the shops regulation act, which prohibits Sunday trading and labor, and to the fact that it is under this act that barber shops have been closed on Sunday. The electric railways act, too, contains a section which is incorporated in every charter, prohibiting Sunday operation of lines. The validity of these enactments has never been disputed, although *their purpose is identical with that of the disputed clauses of the Lord's Day Act.*

Of course the Sunday clauses of these other acts are identical in purpose and character with the purely "Lord's Day" legislation, but instead of that meaning that other legislation of the same character will be proper under the decision, it means that they also are invalid under the decision. The Alliance leaders think they see a way out of the difficulty in which they now find themselves. Their attorney informs them "that the judges considered the word 'profanation,' in the title of the act, to be important, as showing its religious character, and thus bringing it under the jurisdiction of the Dominion government." The judges were right; the word "profanation" is important as showing the religious character of the act, which it unmistakably does. The idea of the Alliance leaders is to frame another Sunday act "in different shape" by omitting this and other words which plainly show its religious charac-

ter, and thus have a measure that will apparently not infringe upon the prerogative of the Dominion to deal with "offenses against religion," and that may for that reason "be found able to stand the scrutiny of the supreme tribunal." We may expect to hear of a "civil" Sunday or "Sabbath" measure in Ontario next, something that the Sunday-enforcement religionists in Canada have hitherto not been obliged to resort to in their enforcement of an observance with which they, in common with their friends in this country, are concerned solely because it is religious.



Of course the decision which invalidates Ontario's Sunday legislation does not touch, except indirectly, the vitally important question of Sunday enforcement itself. This is a question that very seldom gets before the courts on its merits, and when it does the wrong position is almost invariably taken. The question at issue in this instance was not as to the propriety of Sunday legislation itself, but as to which of two authorities had jurisdiction with regard to it. Although it is assumed that the regulation and enforcement of Sunday observance is properly within the jurisdiction of one of these authorities, it is interesting and important to note that it is so held on the ground that to it belongs the right to deal with "offenses against religion." The decision indirectly affirms the right of the Dominion government to enact and enforce Sunday legislation, but it at the same time affirms that it is enacting and enforcing religious legislation when it does so.



The members of the milk peddlers' union of Syracuse, N. Y., were moved to their present agitation for the discontinuance of the delivery of milk on Sunday by "a strong sermon on the subject that was preached to them by Rev. W. W.

Hunt," Methodist. He urged them "to arrange to have no milk delivery on Sunday so that they would have an opportunity to attend church." Church attendance by the people is the object of the clergy everywhere in opposing Sunday work and recreation. It is a good object, but it is not one in the attainment of which they have any right to use the law, even negatively. Since they and the law have no right to compel people to attend church, they have no right to compel them not to work and play in order that they may attend. Is there not a principle of law to the effect that what must not be done directly is equally illegal and wrong if accomplished indirectly?



The Outlook well says that "separation of church and state and religious freedom in the state is of the essence of American institutions," and that "the reactionary spirit, which is not without influence in the Vatican, is hostile" to this that is of the essence of American institutions. And this spirit is not only not without influence in the Vatican, but it is *the* spirit of the Vatican. Notwithstanding its professions of love for "free America" the Vatican's influence is an influence that is hostile to that which is of the essence of American institutions, and its influence will never cease to be such until it ceases to stand for the principles for which it stands to-day. This influence of the Vatican that is hostile to that which is of the essence of American institutions is becoming stronger and stronger in American affairs. How long will America possess that which is of the essence of American institutions?



It seems that the value of the Philippines to the United States, even from the commercial standpoint, lies in the use that can be made of them for fighting purposes in that part of the world. At a chamber of commerce banquet last winter

General Young, who is to succeed Lieutenant-General Miles, declared that the Philippines were valuable "on account of their strategic position with respect to the trade of Asia," and indicated what he meant by this by saying: "To gain supremacy in the commerce of the East we must maintain at the islands a military and a naval force that could act quickly and effectively at any point in the Orient. The time will come when we shall have to fight to maintain the supremacy of our commerce." So it will be by fighting in the Orient that the United States will reap the benefit of holding the Philippines! Certainly that is a doubtful benefit.



In speaking of the "intensified public interest in the selection of the next occupant of the papal chair," *Harper's Weekly* says "there are many reasons why this interest should be acute, and should be shared . . . by statesmen in European countries and even in the United States." It is stated that "since our acquisition of the Philippines it has become a matter of importance to our Federal government that the papal chair shall be occupied by a Pontiff capable of taking a broad and accommodating view of the question of the friars, which still constitutes the most difficult problem in the archipelago." The fact that the acquisition of the Philippines has caused the American government to become concerned with the Papacy—to be brought into "closer touch with the Holy See," as a papal orator expresses it—is by no means the least of the great evils of that acquisition.



Rebecca Harding Davis wonders that "the Catholic Church, which is so ready to use every means to influence popular opinion, and so skillful in using them," did not "devise a way in which the world could have saluted the departing shade" of

the late Pope in some such fashion as was done when McKinley was buried, when traffic was stopped and the whole country was "silent and motionless for a half hour." She is sure that "there is no man in America who would not have been helped by a moment's pause and silence as Pope Leo was laid in his grave." It is strange that the Catholic Church did not do something of this sort. But perhaps she thought it was unnecessary, as all the world seemed to be paying tribute to the Pope anyhow. Perhaps she preferred not to interrupt this praise and admiration for even such a silence.

✦

"The Rev. Thomas A. Hendrick, one of the four American Catholic bishops recently appointed, called upon President Roosevelt on July 24 to discuss questions relating to his church in the Philippine Islands." Is the President helping run the Catholic Church now? It was by invitation of the President that Archbishop Farley and a man "prominent in Catholic Church affairs" visited Oyster Bay on July 13 and discussed with him "Catholic conditions in the Philippines." On account of the death of the Pope the "Holy Name Society" did not hold its annual council on July 26, and so the President did not address it. But it is now announced that he will certainly do so when the council is held.

✦

The San Francisco *News-Letter* declares that "it is absolutely silly, idiotic and stupid to think for a moment that the United States has any voice at all, or the slightest influence in the conduct of the 'business' of either the occupant of St. Peter's chair, of the college of cardinals, of any department of or any of the machinery of that politico-religio power." It is of the opinion that "the stream of influence runs in this, not in that, direction." There can be no doubt about the truth of this last statement.

By their activity in behalf of their Sunday legislation in that Province the champions of Sunday enforcement in Ontario have brought themselves to the attention of that eccentric but brilliant character in London, Mr. Henry Labouchere. A dispatch states that in his paper, the *London Truth*, he "dubs the Sabbatarians of Ontario, whose Sunday observance act has just been declared *ultra vires*, a set of narrow-minded bigots." Mr. Labouchere's pronouncement on this point needs very little modification.

✦

The decision of the Privy Council was no doubt a surprise to others besides the leaders of the "Lord's Day" Alliance. It is said that Premier Laurier and his three immediate predecessors have all held "that the enactment of laws governing the Lord's Day came within the jurisdiction of the provinces, except in the case of railways and canals, which were controlled by the federal government." Sir John Thompson also included newspapers with railways and canals in this matter.

✦

At a mass-meeting in a Presbyterian church in Puyallup, Wash., on July 12, resolutions were adopted calling for the closing of "the gates of the Valley Fair on the Sabbath day, commonly called Sunday," and directing that copies of the resolutions be sent, to the fair management, to the papers, and "to the mayor of the city."

✦

It was reported from points in Minnesota recently that "in line with the action of the North Western, the Omaha has abandoned Sunday excursions of all classes." It is said that the object in both cases was "to give the men a day of rest and save expense."

✦

"Seldom in the history of the Papacy has the outcome of a conclave been awaited with more interest by European statesmen," says *Harper's Weekly*.

Ontario's "Lord's Day" Legislation Invalid

British Privy Council Reverses Decision of Toronto Court of Appeal

THE Sunday legislation of the Province of Ontario, Canada, has been declared *ultra vires* (beyond legal power and authority), by the Imperial Privy Council in London, the court of last resort in such matters in the British Empire. This judgment, news of which reached Toronto on July 15, settles a question that has been pending for several years, and in which seventh-day observers, Sunday-enforcement champions, and transportation companies in the Province were especially interested.

In 1896 two Seventh-day Adventist ministers, after an appeal to the Divisional Court at Toronto, were compelled to serve a sentence of forty days each in jail at Chatham for having done some work on Sunday in connection with the erection of a church building at Darrell. Later other arrests and prosecutions of seventh-day observers took place, and to aid in this persecution, for the facts showed it to be nothing else but the work of religious bigotry and intolerance, an amendment to the Sunday law was secured from the provincial legislature. The "Lord's Day Act" was substantially identical with the statute of Charles II., from which it was derived, and in harmony with that seventeenth century English enactment prohibited the doing of business or work of one's *ordinary calling*. It named specifically "merchant, tradesman, artificer, mechanic, workman, laborer," and since farmers were not named the general interpretation of the act was that it did not apply to them. Now it was a little difficult to reach the Adventists with this law. Although it was done, *ministers* could not legally be punished for doing *manual* labor on Sunday; and farmers could not be prosecuted and convicted without flying in the face

of the accepted interpretation of the statute. Hence the law was amended so as to specifically include farmers and to prohibit all labor and work, whether of one's ordinary calling or not. The demand for this amendment came from a district where there were quite a number of Adventists, and where they were growing in numbers, and on its adoption by the legislature the representative who secured its passage wrote to one of his constituents that he trusted it would "have the effect *desired in regard to the Adventists* who have been giving some annoyance in your neighborhood."

About this time the "Lord's Day" Alliance, a Sunday-enforcement organization, became active and prominent in Ontario, and among other things secured the passage by the provincial legislature of amendments to the "Lord's Day Act" prohibiting Sunday railway and steamboat excursions and the running of street-cars on Sunday. With the aid of this legislation the organization named harassed the transportation companies considerably in the attempt to prevent their operation on Sunday. After a hard-fought battle Toronto secured exemption from the prohibition against the operation of street-cars, but the law remained in force elsewhere and was frequently invoked by the "Lord's Day" Alliance. The prosecution of the Hamilton Street Railway Company is the case that has gained most prominence.

Out of all this arose the question of the constitutionality of the "Lord's Day Act" as amended by the provincial legislature. On the ground that the legislature of Ontario had exceeded its authority in enacting the Sunday legislation that it had, since authority to enact *criminal* legislation belonged

exclusively to the Dominion parliament under the Act of Federation, both the seventh-day observers and the transportation companies claimed that the legislation was unconstitutional, and appealed cases for the determination of the question. Seeing that the question must come up for decision, the "Lord's Day" Alliance people got the attorney-general of the Province to forestall these appealed cases with a stated case, or rather with a number of questions respecting the legislation, for judicial determination. These questions were submitted to the Court of Appeal at Toronto by the lieutenant-governor of the Province, and according to the court record were as follows:

1. Had the legislature of Ontario jurisdiction to enact chapter 246 of the Revised Statutes of Ontario, intituled "An Act to prevent the Profanation of the Lord's Day," and in particular sections 1, 7 and 8 thereof?*

2. (a) Had or has the legislature of Ontario power by the aforesaid act, or any other act of a similar character, to prohibit the doing or exercising of any worldly labor, business, or work on the Lord's Day within the Province upon and in connection with the operation of lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings to which the exclusive legislative authority of the Parliament of Canada extends under the British North America Act, section 91, sub-section 29, and section 92, sub-section 10 (a), (b), (c)? (b) Had or has the legislature of Ontario power to prohibit the doing or exercising of any worldly labor, business, or work, on the Lord's Day within the Province, when such prohibition would affect any matter to which the exclusive legislative authority of the Parliament of Canada extends under any other sub-section of said section 91, as, for example, sub-sections 5, 10, and 13?

3. In section 1 of said statute, R.S.O., chapter 246, or the Consolidated Statutes of Upper Canada, chapter 104, as the case may be, do the words "other persons whatsoever" include all classes of persons enumerated who may do any act prohibited by said section, or is the meaning of these words limited so as

to apply only to persons *ejusdem generis* with the classes enumerated?

4. Subject to the exceptions therein expressed, does said section 1 prohibit individuals who, for or on behalf of corporations, do the labor and work, or exercise the business of carrying passengers for hire, from doing such labor and work and exercising such business on the Lord's Day, whether the corporation for or on behalf of which the work or labor is done are or are not within the prohibition of the said section?

5. Do the words "conveying travelers," as is used in said section 1, apply exclusively to the carrying to or towards their destination of persons who are in the course of a journey at the commencement of the Lord's Day?

6. Does the said section 1 apply to and include corporations?

7. (a) Do the words "work of necessity," as used in said section 1, apply so as to include the doing of that which is necessary for the care or preservation of property so as to prevent irreparable damage other than mere loss of time for the period during which the prohibition extends? (b) If so, is the necessity contemplated by the statute only that which arises from the exigency of particular and occasional circumstances, or may such necessity grow out of or be incident to a particular manufacture, trade, or calling? (c) If such necessity may grow out of or be incident to a particular manufacture, trade or calling, do the words "work of necessity" apply exclusively to the doing on the Lord's Day of that with which the particular manufacture, trade, or calling cannot successfully be carried on during the remaining six days of the week?

These questions were framed with special reference to the points arising out of the prosecution of the managers and employees of transportation companies, but of course the principal point was that raised by the seventh-day observers—that of the authority of the Province to enact Sunday legislation. In May, 1900, the Court of Appeal at Toronto listened for nearly a week to arguments on the points raised. The attorney-general of the Province and attorneys for the "Lord's Day" Alliance consumed most of the time devoted to the hearing, contending for the right of the Province to enact the legis-

*These were the sections constituting or containing the amendments mentioned.

lation in question and for all the points favorable to Sunday enforcement. The other side of the question, which was presented by an attorney in about a half day's time, seemed to make the most favorable impression upon the court. Before a decision could be rendered the venerable Lord Chief Justice, who especially seemed not to look with favor upon the contentions of the attorneys representing the Province and the "Lord's Day" Alliance, found it necessary to resign because of his age. This made necessary a rehearing of the matter, which took place before Chief Justice Armour and Justices Osler, MacLennan, Moss, and Lister at Toronto on April 2, 3, and 4, 1901. Again the attorney-general of the Province and Attorney A. E. O'Meara for the "Lord's Day" Alliance argued in behalf of the Sunday legislation, and other attorneys argued against it.

In the form of separate responses to the questions by each justice, except Justice Lister, who died while the matter was under consideration, the court rendered its decision on April 14, 1902. Chief Justice Armour answered the questions thus:

As to question 1, I am of the opinion that the legislature of Ontario had no jurisdiction to enact R.S.O., 1897, chapter 246, intituled "An Act to prevent the Profanation of the Lord's Day," in its present form and to the full extent of its provisions. The profanation of the Lord's Day is an offense against religion, and offenses against religion are properly classed under the limitation "crimes," and consequently the enacting of laws to prevent the profanation of the Lord's Day, and imposing punishment therefor by fine, penalty, or imprisonment, properly belongs to the Parliament of Canada under sub-section 27 of section 91 of the British North America Act, and to this extent chapter 246 is beyond the power of the legislature of Ontario. The consequence of this opinion is that to this extent C.S.U.C., chapter 104, is still in force, never having been repealed by competent authority.

And as the result of this opinion I answer questions 2 (a) and (b) in the negative.

As to question 3, I say that the meaning of the words "other persons whatsoever" in section 1 of C.S.U.C., chapter 104, is limited so as to apply only to persons *ejusdem generis* with the classes enumerated.

I answer questions 4, 5, and 6 in the negative.

Question 7: (a) I answer in the affirmative, and as to (b) I say that such necessity may grow out of or be incident to a particular manufacture, trade, or calling; and I answer (c) in the negative.

Every one of these answers was against the contentions of the Province and the "Lord's Day" Alliance. But the Chief Justice was alone in his opinion on the vital point. The other justices, with the exception of questions 7 (a), (b) and (c), which they declined to answer, agreed with the Chief Justice on all the questions except the first. That they answered in the affirmative, and thus the opinion of the court on the vital point was a victory for the champions of the Sunday legislation. As a case entitled "The Attorney-General for the Province of Ontario vs. the Hamilton Street Railway Company and others," the matter was then appealed directly to the Imperial Privy Council in London, before the judicial committee of which the matter was argued for three days, the hearing concluding on July 14 last. The judicial committee at once rendered its decision. The following is from the report of the matter given in the *London Times* of July 15:

The Court of Appeal—the late Chief Justice Armour dissenting—decided that the legislature of Ontario had jurisdiction to enact the statute in question, but on the other and more abstract questions answered them in the negative. Against that decision, on the latter points, the present appeal was brought by the Ontario government, while the Dominion government contested the opinion of the Court of Appeal on the first and most important ground, *viz.*, whether the act in question was one within the province and powers of the provincial legislature to enact, they contending that legislation on such matters was within the

exclusive field of the Dominion parliament and wholly withdrawn from the provincial legislature, under the British North America Act. The other respondents—railway and tram companies and others—supported the judgment of the Court of Appeal in their decision that the provisions of the act—whether *intra vires* or not—did not apply to their conveyance of travelers on the Lord's Day.

Mr. Paterson, K. C. (of the Canadian Bar), appeared for the appellant; Mr. E. L. Newcombe, K. C. (of the Canadian Bar), and Mr. H. W. Loehnis were counsel for the Attorney-General for the Dominion of Canada; Mr. Osler, K. C. (of the Canadian Bar), and Mr. Lauriston Battem for the Grand Trunk Railway of Canada; Mr. Aylesworth, K. C. (of the Canadian Bar), for the Metropolitan Railway Company and others; and Mr. A. E. O'Meara for the Ontario Lord's Day Alliance.

At the conclusion of the arguments on both sides the Lord Chancellor gave judgment. He said their lordships had considered this case, and, speaking without reference to the last question, with which their lordships would deal separately, but which had been suggested for their consideration, they were of opinion that the act, treating it as a whole, was beyond the competency of the Ontario legislature to enact, and they were prepared to answer that question, therefore, by saying that the act itself as a whole was invalid. The question turned upon a very simple consideration. The reservation of the criminal law for the Dominion was given in language which their lordships considered to be very plain, ordinary and intelligible words, and were to be construed according to their natural signification. Those words seemed to their lordships to require, and, indeed, admitted of, no plainer exposition than the language itself. What was reserved was "the criminal law except the constitution of courts of criminal jurisdiction, but including procedure in criminal matters." It was, therefore, as had been once said before in that court, the criminal law in the widest sense; and it was impossible, notwithstanding the very protracted argument to which their lordships had listened, to doubt that an infraction of the act which was in operation at the time of confederation was an offense against the criminal law. Their lordships would humbly advise his Majesty that that was the state of the law.

The fact that an exception was taken from the criminal law generally and that it was

expounded as being the constitution of courts of criminal jurisdiction, but including procedure in criminal matters, rendered it more clear (if anything were necessary to render it more clear), that, with that exception, which obviously did not include what had been contended for there, the criminal law, in its widest sense, was that which was reserved for the Dominion parliament to enact. With regard to the other questions which it had been suggested should be reserved for further argument, their lordships were of opinion that it would be inexpedient and undesirable and contrary to the precedents which from time to time had been pointed to in the questions arising before that board to attempt to give any judicial opinion upon them. . . . They were questions which, when they arose, must arise in concrete cases, in which the rights of private individuals were involved; and it was extremely unwise beforehand for any judicial tribunal to attempt to exhaust all the possible cases and facts which might occur to qualify, cut down and override the operation of particular words when the concrete case was not before them. For those reasons their lordships would decline to answer those questions. The main and substantial question was that on which their lordships had already expressed their opinion—that this Ontario act was beyond the jurisdiction of the Ontario legislature. No order would be made as to costs.

So at last victory in this matter is with those who have denied the constitutionality of Ontario's Sunday legislation. The "Lord's Day" Alliance has met with utter defeat in a matter in which it has fought desperately for success. And the Alliance was the first to learn of its defeat. The first news concerning the matter was a cablegram to the Alliance from its attorney in London. In addition to this special attorney, Rev. Dr. Potts also went to London in the interests of the Alliance in this matter. A Toronto paper reported immediately after the news arrived that the leaders of the organization "were absent from the city, so that no expression of opinion could be obtained from them." However, the direction in which their energies will now be turned is undoubtedly that indicated by the state-

ment in a Montreal paper that the decision "means that the advocates of a more thorough observance of the Lord's Day must seek relief from the Dominion government." They will no doubt do everything possible to get "relief" in this direction, but fortunately they are likely to find it not so easy a matter to secure what they want from the Dominion parliament as it was to secure it from the provincial legislature. An Ontario attorney who has been interested in the matter in connection with the arrest and prosecution of the seventh-day observers expresses the opinion that "the Dominion will not be able to enact such a stringent measure as was the Ontario statute, owing to the larger country to legislate for and the more widely diversified opinions to be found in such a large country." Also it is reported from Ottawa that Mr. John Charlton, M. P., who has for many years interested himself in behalf of Sunday observance by law, having attempted under the administrations of at least three different premiers to secure the enactment of additional Sunday legislation by the Dominion parliament, is of the opinion that the decision of the Privy Council "will have a very far-reaching effect, and that it will be difficult to secure a Dominion law to control the observance of the Sabbath."

The answer to the Sunday question which the Christian citizen should give is clear. He has no right to put the religious restriction of his conscience on another. Let us catch the spirit of Jesus Christ, . . . and while we take care to live honestly by our own faith in God and duty, grant to each man the right to live by his faith and his conception of duty.—*Rev. Spencer B. Meeser, Detroit, Mich.*



All union of church and state is odious and of necessity oppressive to the non-

The only Sunday law now in force in Ontario, and likewise in all the other Canadian provinces, is the general law of the Dominion on the subject. This law "dates from the reign of Charles II. and is one of the imperial statutes adopted at the time of federation." It seems that under it it is not illegal for farmers to work on Sunday and for others to do work other than that of their "ordinary calling." The Dominion parliament alone has the constitutional authority to amend this law. So "all Lord's Day legislation passed by the Ontario legislature since confederation is *ultra vires*."

When we go beyond the constitution of Canada to the constitution of civilization, when we go beyond the law to the principles with which the law should conform and from which alone it derives its rightful authority, we must say further that the Sunday legislation of the Dominion itself is *ultra vires*. It is not within the scope of the legitimate authority of any civil legislature or parliament to deal with "offenses against religion" and to prohibit "the profanation of the Lord's Day." The profanation of the "Lord's Day," or any other day, and offenses against religion as such are not crimes, and all the criminal enactments of all the legislatures and parliaments of the world cannot make them such.

conformist minority. Such a union would be none the less repugnant to us because the church which was a partner in this iniquitous compact was the Jewish. The tendency in all civilized countries is toward the gradual absolute separation of church and state, and the progress made in this direction is the justest test of the degree of civilization attained.—*American Israelite.*



Sunday legislation is church-and-state union.

The Church and Its Work

By W. A. Colcord

THE church exists for the purpose of saving men from sin. With the affairs of the state it can of right have nothing directly to do. While upholding law and order, and as a natural and inevitable result of its legitimate work, strengthening the moral foundations of society, its direct and specific business is to teach the principles of the kingdom of God, and prepare men for the world to come.

Its means of warfare are prayer, persuasion, and the word of God. No carnal weapon has been vouchsafed to it in its work. "Vengeance is mine," says the Lord, "I will repay." While to civil government has been committed the sword for the punishment of evil-doers, to the church has been given only "the sword of the Spirit, which is the word of God." But this in the hands of the church, when skillfully employed, is a most telling and powerful instrument; "for the word of God is quick and powerful, and sharper than any two-edged sword, piercing even to the dividing asunder of soul and spirit, and of the joints and marrow, and is a discernor of the thoughts and intents of the heart." "The weapons of our warfare," says Paul, "are not carnal, but mighty through God to the pulling down of strongholds; casting down imaginations, and every high thing that exalteth itself against the knowledge of God, and bringing into captivity every thought to the obedience of Christ."

The church has therefore been well and sufficiently equipped for its work. Its members are exhorted to take to themselves, and to put on, "the whole armor of God"—the girdle of "truth," the "breastplate of righteousness," the sandals of "peace," and above all the "shield of faith," also the "helmet of salvation,"

and lastly the "sword of the Spirit, which is the word of God." These constitute the "whole armor of God" for the Christian, and so for the church.

Let it be noted that in this enumeration no carnal weapon is mentioned. The temporal sword or power of the state is not once referred to. These, therefore, are not included in the Christian's legitimate weapons of warfare. Whenever the church, therefore, appeals to the power of the state for help to carry on its work, it asks for something outside the armor provided for it by God, and virtually either says this armor is insufficient for its work, or confesses that it does not have it on. Let this point be carefully noted.

When the church became a necessity is evident—when sin entered the world. Had there been no sin there would have been no one in need of salvation, and consequently no church. But the entrance of sin into the world made the existence of the church a necessity. And how long the church is needed is likewise plain. So long as there is sin in the world, and any one to be saved from sin, so long will the church be needed and have work to do in the world.

The word church comes from the Greek word *ecclesia*, which means "called out." The church, therefore, that is, the true church, is composed of those who have been called out from the world, who have renounced sin, and henceforth live unto God. They are the elect of God, the called according to His purpose. By faith they live a life of righteousness, and exemplify before the world the principles of the kingdom to which they belong.

The church is the pillar and ground of the truth. Its work is to beseech men to be reconciled to God. Those composing it are to let their light so shine before

men that others may see their good works and glorify their Father in heaven. Their work is to turn men from darkness to light, and from the power of Satan unto God, that they may receive forgiveness of sins, and an inheritance among them that are sanctified by faith that is in Christ. They are to show forth the praises of Him who has called them out of darkness into

His marvelous light. They are to reflect the bright beams of the Sun of Righteousness. Those composing the church are "a spectacle unto the world, and to angels, and to men." The duty of the church, therefore, is to "arise and shine."

This, in brief, is the church, its origin, its object and its work.

SUNDAY ENFORCEMENT

This department is designed to record what is being done throughout the United States and elsewhere in the way of Sunday enforcement. Necessarily the items in most instances must be a bare recital of the facts. The principles involved are discussed elsewhere in the paper.

It was reported recently from Rochester, Ind., that "a movement is on foot to close all places of business on Sundays." "Everything will be closed—livery stables, stores, cigar stands; no hacks will be allowed to run and no papers can be sold."



In New Richmond, Wis., on July 19, "churchgoers were shocked to see some of Contractor Huebner's men and teams at work on the paving operations." The mayor was at once seen regarding the matter, and he "marched down to the scene of sacrilegious activities and the work was immediately stopped."



The city commissioners of Asbury Park, N. J., have decided "that Sunday must be properly observed at the beach hereafter." "Everybody must shut up shop sharply at noon, including the bathing establishments." "Newsboys will not be allowed to shout their wares on the board walk Sundays," and "there will be no more Sunday yachting."



At Burlington, Vt., on July 14, Eugene Stellato and L. Alfred were arraigned in the city court "under a statute originally enacted in 1787 which forbids selling merchandise on Sunday." "They plead-

ed guilty and got the maximum sentence," which was \$2 each and costs. "It is the intention of the authorities to close up all places doing business on Sunday."



On the strength of the prohibition in the Sunday law against the sale of goods on Sunday clergymen of Fort Erie, Ontario, recently called upon the chief of police to prevent the sale of newspapers on Sunday. After consulting an attorney to see if the law covered the matter, the chief gave notice that "anyone selling newspapers on Sunday would be arrested."



This was reported from Chelsea, Mass., on July 14:

Four Revere photographers arrested by Chief Oakes yesterday pleaded guilty in the Chelsea court to-day to taking photographs on Sunday and were fined \$50 each. One man was fined \$25 additional on a second count. All appealed from the fine and were held for the Superior Court. The arrests were the outcome of a crusade to prevent the violation of the Sunday laws at Revere Beach, one of the most popular suburban summer resorts.



At Windsor Locks, Conn., on July 18, "the selectmen caused notices to be served on the proprietors of drug and fruit stores, warning them to close their

places of business on Sunday or prosecutions will be brought." This was done in response to a petition signed by some eight or ten persons.

The complainants base their action on an old blue law of Connecticut, which, they claim, has never been repealed, and call upon the selectmen to enforce it to the letter, although popular sentiment is opposed to it, and many expressions of indignation are heard.

✦

By order of the authorities the proprietors of fruit stores in Meriden, Conn., have been notified "that they must remain closed on Sunday or they will be prosecuted." The cause of this action is not known exactly, but it is thought to have been inspired by the butchers' and grocers' association. It has brought out the fact that "many years ago the law said that stores should not do business between sunrise and sunset on Sunday," but that now it forbids them to do business between 12 o'clock Saturday night and 12 o'clock Sunday night; and that whereas the penalty formerly was a fine of \$4 it is now a fine of \$50. Time does not seem to be working any modification of Connecticut's Sunday law.

✦

At Wilkinsburg, Pa., on July 15, three druggists and a tobacco seller were arraigned before Burgess Keys on the charge of Sunday selling. In the cases of the druggists, one was dismissed because the complaint was not made out properly, decision in another was reserved, and the third was continued for lack of witnesses, some of the persons summoned being loth to testify, and one man refusing absolutely to do so. The tobacco seller was a Roumanian. He "was arrested for selling a package of tobacco" on the preceding Sunday, and though "the proof was meager," he "was fined \$25 and costs"! "While the hearings were taking place the W. C. T. Union met in the First Presbyterian Church and passed resolutions endorsing the ac-

tion of the committee of twelve" which had brought about the prosecutions. On the same day the pastor of the church named, Rev. T. Parry, "said that the committee of twelve will be assisted by a new committee of one hundred, and that \$1,000 will be raised to prosecute the evildoers." The crusade is especially against the sale of "ice-cream sodas and summer drinks" by the druggists, but "it is threatened by the committee that they will stop the sale of any article, no matter what its nature may be."

✦

The matter of Sunday baseball was before the Lincoln, R. I., township council on July 8. A letter from the treasurer of a manufacturing company protesting against Sunday ball playing in the town of Manville, and calling for its suppression, was read. Rev. Albert Crabtree was present in person to second the protest, and addressed the council to the same effect. After some discussion the town sergeant was instructed "to proceed against everybody caught assisting in the game in any manner on Sunday hereafter."—"Acting upon the protests of the clergy, particularly of the Roman Catholic Church," the Burrillville, R. I., town council "has voted unanimously to allow no more Sunday ball playing," and "has issued an order to the police to stop it." This is said to mean the discontinuance of "Sunday ball playing in the northern part of Rhode Island."—A committee was recently appointed by the Epworth Methodist church in Kenton, Ohio, "to act conjointly with committees from other churches to take action regarding Sunday baseball." It was expected that the mayor would "be asked to put a stop to all playing of ball within the city limits on Sunday."—The eighteen members of two baseball teams were arraigned before Police Justice Price in Syracuse, N. Y., on June 29 on a charge of "playing Sunday baseball." The members of

one of the teams were discharged, but the others were held for a jury trial, which their attorney demanded.—The ministers of Jamestown, N. Dak., “have been making a fight against Sunday baseball.” “The combination secured a warrant and caused the manager of one team to be arrested. He was fined \$1 and costs, which a prominent business man promptly paid.”—It was recently reported from New Bedford, Mass., that “the ministerial association is at work devising some plan which will be effective in stopping the Sunday playing of baseball.”—As the result of “complaints to the mounted police against Sabbath violation,” six boys were arrested at Homestead, Pa., on June 21 for playing ball on Sunday.—The Hendrum, Minn., village council “has

refused a request of the Presbyterian congregation to prevent boys from playing baseball on Sunday.”—“Much excitement over the question of Sunday ball games” was recently reported from Findlay, Ohio.—Bird Island, Minn., “residents have stopped Sunday baseball, and everybody goes to church.”—It was recently reported from Creston, Iowa, that “the ministers are making war upon Sunday baseball.”



The saloon-keepers of Aitkin, Minn., have signed a paper in which they agree “to keep closed tight” on Sundays during the next four months, and request “the day and night village marshals to strictly enforce the agreement.”

According to statistics furnished by the State Commissioner of Excise, there were last year in the seven leading cities of New York State 2,588 places known as “hotels” where liquors were sold, 2,167 of which were in Greater New York. This is an average of one such place to every 1,570 of the population of these cities. The figures show a considerable decrease in the number of these places from the preceding year. In Greater New York, which includes the boroughs of The Bronx, Manhattan, Kings (Brooklyn), Queens (formerly towns of Flushing, Jamaica, Newton, and Long Island City, L. I.), and Richmond (Staten Island), the number of places of all sorts licensed to sell liquors to be drunk on the premises where sold is 10,923. A decrease of 2,979 is claimed from the number of such places existing in 1896 before the Liquor Tax Law, commonly known as the “Raines law,” went into effect. Then, in addition to these, there are 1,080 places licensed to sell liquors not to be drunk on the

premises where sold. These places are known as “stores,” and supply liquors for “family use.” A decrease is claimed here also from the number in existence in 1896, the number of the decrease being given as 350. But there is an enormous increase in the number of places where “pharmacists” are authorized to sell liquors “upon a physician’s prescription only.” The number has arisen from 89 in 1895, before the Raines law went into operation, to 564 in 1901. It costs \$60,000 per annum to collect the State (which includes the city) liquor tax in the various boroughs of Greater New York, but that is a mere trifle compared with the revenue received, the amount collected for the year ending April 30, 1901, being \$8,497,186.00. These statistics indicate the enormity of the liquor traffic, but while they may suggest, they cannot portray, the terrible ravages of the liquor curse. Only the bodies and souls of the hundreds of thousands of men and women who are the victims and slaves of this curse can adequately reveal that,

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