

free to send it to the condenser or not as they may choose on Sunday in summer. Unfortunately all are not equally fortunate in respect to cool wells of water, nearness to other markets or plants, intelligent and cleanly families and employees and other advantages. In the days when Sabbath observance was instituted in the wilderness there was direct Divine provision made not only to insure food in plenty but rest on the Sabbath as well. A double portion had to be collected on the previous day, for no manna was found on the Sabbath, but that gathered the previous day "did not stink, neither was there any worm therein" (Exodus: 16-24), as at other times. Under the Christian dispensation we are left to make our own rules for observance of the Lord's Day. The cows must be milked and bacteria and acidity attack the milk, on that as on other days and we must meet these conditions as best we can. The Lord's Day Act is intended to provide for them.

Have the defendants shewn themselves to have come within the exceptions in the Act in doing what they did on June 1st last? Could not the Sunday milk be cared for on Monday otherwise than on other days of the week by making sweetened milk, cheese or some other product of it? To do this the defendants would have to establish an additional plant at a large expense and engage in what would practically be another industry. I do not think they should be called upon to do so. (See *Rex v. News Pulp and Paper Co.*, 28 Can. Cr. Cas. 77.) Their product seems to be a pure and nutritious one, being milk unalloyed with other ingredients. It affords food suitable alike for adults and infants, for army and navy, workers at home and abroad in forest or mine. It is milk, which the Act allows of being cared for on Sunday, even though it be condensed.

To sum up, I find that the work done by defendants at their factory on June 1st was a "work of necessity" within the meaning of sec. 12 of the Lord's Day Act.

Also that such work fell within sub-sec. (d) of said sec. 12 as being work essential to an industry of such a continuous nature that it could not be stopped without serious injury to such industry.

Also that such work was a "caring for milk" within sub-sec. (m) of said sec. 12, and that said sub-section covers work by manufacture of this character and not exclusively work by the producer on farm or in dairy. The caring for cheese, a manufactured article, is provided for in the same sub-section.

Sub-section (r) referring to the delivery of milk for domestic use, etc., had, I think, no application here.

It has been suggested that defendants contemplate more extensive Sunday work. Though there is no actual evidence of