

staunchly lest some Samson of evil uproot its foundation and carry it off. The Sabbath is the door of the week, the gates of the city, and in this effort to conserve the Sabbath let there be no rest, let there be no Sabbath; for the activities of good should have no Sabbath; and let us see to it that the activities of evil have a long, eternal Sabbath, yea, a never-ending, Dead Sea stagnation.

But let us now inquire what specific Lord's Day legislation we possess in Ontario and the state of the law resulting therefrom.

It is needless for me to discuss at length the difference between the *lex scripta* and the *lex non scripta*. The *lex non scripta*, or the unwritten common law, contains within it the basal principle of Sabbath Observance. Christianity is part of the common law of England and therefore also of Canada. Her salutary principles are the bulwarks of our liberty, are embedded into the very structure of our jurisprudence, and are the buttresses of our civilization. And so we find Sir Edward Coke, three hundred years ago, quoting this maxim: "*Dies Dominicus non est juridicus*." Throughout the British Empire the Sabbath day is a *dies non*; that is to say, it is not a day but *the day*; so far lifted up beyond the level of other days that it is not classified with ordinary secular days, but rests on a proud pre-eminence, clear and away beyond the cloud and dust and the hurly-burly of the common business days. This may be called a *lex non scripta* in the sense that it is a law not written on tablets made with hands, but yet a *lex scripta* because written in a more imperishable manner upon the hearts and consciences of the people of the realm.

The statutory Sabbath law dates in our history from the 27<sup>th</sup> year of Henry II. and on through the Parliaments of James I. and Charles I. down to the 29<sup>th</sup> year of Charles II. (1678) when, an act was passed, which is the real foundation of our present Ontario Statute, R.S.O., Cap. 203, commonly known as the Lord's Day Act. Under this Ontario Statute a prosecution was undertaken against an island steamer plying in Toronto Bay on Sunday and a conviction was obtained which on appeal was not disturbed (See *Queen vs. Tinning*, II. U.C., Q B. 636). Later on, in 1882, convictions were obtained in the case of the