

alone be dealt with by the Dominion Parliament and that the original Act could not now, and the amendments as well could not be passed by the Provincial Legislature. Hence that the amendments under which the information is laid are ultra vires.

Statutes of this character are common in the United States, and they are held to deal with Sunday as a civil institution, and to be a proper exercise of the police power of the State to promote the mental, moral, and physical well-being of the people by providing that they shall rest a seventh part of their time from labour, and at regular intervals. I only refer to these laws to ascertain, if possible, what is the proper head to put such statutes under in this country.

Blackstone, vol. 4, p. 63, not only treats of Sunday as a civil institution, but, as would be expected, in England, also from the standpoint of religion or morals. He has a chapter "Of Offences against God and Religion," and, under it, a head, "Profanation of the Lord's Day, vulgarly but improperly called Sabbath-breaking." There he refers to early English statutes, the parent of some of the American statutes as well as our own.

Many text writers follow this classification. In Bishop on Criminal Law, vol. 2, sec. 951, it is even suggested that the violation of the Lord's Day was indictable at common law. In 1 Chit. Crim. Law 20, there is a form of indictment at common law against a Sabbath breaker and profaner of the Lord's Day in keeping open shop. But it proceeds on the ground of nuisance, and would not cover the offences mentioned in this Act. In the Criminal Code of Canada there is a title, "Offences against religion, morals, and public convenience." Of course it is difficult to draw the line in respect to legislation relating to civil rights and relating to public wrongs. But if it can be shown to be dealing with public wrongs, then it is removed from the head of civil rights.

It seems to me that there is authority on the point—a dictum in *Russell v. The Queen*, 7 App. Cas. 829. I venture to refer to it, although it appears that courts of first instance have generally had the misfortune to misunderstand any citations that they have ever made from that case. "Next, their Lordships cannot think that the Temperance Act in question properly belongs to the class of subjects, 'Property and Civil Rights.' What Parliament is dealing with in legislation of this kind is not a matter in relation to property and its rights, but relating to public order and safety. Upon the same considerations the Act in question cannot be regarded as legislation in relation to civil rights. In however large a sense these words are used, it could not have been intended to prevent the Parliament of Canada from declaring and enacting certain uses of property, and certain acts in relation to property to be criminal and wrongful." This is the dictum. "Laws which make it a criminal offence for a man wilfully to set fire to his own house on the ground that such an act endangers the public safety, or to overwork his horse on the ground of cruelty to animals though affecting in some sense property and the right of a man to do as he pleases with his own, cannot properly be regarded as legislation in relation to property or to civil rights. Nor could a law which prohibited or restricted the sale or exposure of cattle having a contagious disease be so