

ciples affecting Sabbath observance are in the weigh-scales of judicial determination.

The restaurant question is not "res integra," for it has already been before our Courts more than once. The first was the case of *Queen v. Alberti* (1900), 3 Can. Cr. Cas. 356, where Macdougall, Co. J., the then senior judge of the County Court of York, held that a bona fide restaurant-keeper could, on Sunday, sell to a customer ice-cream to be eaten on the premises, on the ground that it was an article of food and could not be distinguished from other articles of food which might be more substantial. The judge notes the fact that candies were exhibited on the premises, but not offered for sale—evidently it was judicially suggested, if not actually held, that candies were not food. Then followed *Rex v. Sabine*, decided by his successor, Judge Winchester, who held that a licensed restaurant-keeper who did not strictly and exclusively supply meals and carry on the business of a victualler, but who obtained his license in order to give him a colour of right to sell ice-cream soda on Sunday, was rightly convicted of a breach of the Lord's Day Act.

Then comes a case decided at London by Mr. Francis Love, P. M., in December last. The defendant there had a restaurant license, and supplied only "short lunches," such as sandwiches, cakes, boiled eggs, etc., and did not serve regular meals on Sunday, but took orders for ice-cream and ice-cream soda alone. The London Police Magistrate followed *Rex v. Sabine*, and convicted, criticising *Queen v. Alberti* thus,—“I would have preferred to base this decision on the broad ground that an eating-house proprietor, in the fullest sense of the term, is not entitled to sell ice-cream on Sunday, unless it is supplied in conjunction with a regular meal or at a time when regular meals are usually and ordinarily supplied, or when the consumer is taking it for food purposes and as a necessary food and not a confection, but as this would directly contradict *Queen v. Alberti*, I do not feel at liberty to do so.” These cases were duly prosecuted and seriously defended.

Another case of refreshment sales on Sunday, however, possesses a sort of "opera bouffe" character: An enterprising