

Is it quite clear, besides, that nothing less than a positive affirmation by Parliament that prior legislation upon the subject dealt with, derogating from the scheme and tenor of the later, was annulled, would occasion its repeal? There can be no doubt, at any rate, that the Dominion has by enacting sections 170 to 173, inclusive, of the Code, as well as by provisions of the Railways and Canals Act, inaugurated laws bearing upon the sanctity of the Lord's Day.

The suggestion is broached that the Legislature might be able to surmount this adverse judgment of the Privy Council by exacting from every shop-keeper, under the provision of s. 92, sub-s. 9 of B. N. A. Act, a license to prosecute his calling, and then restrict the time of its exercise to week-days. If the regulations on the statute book of the Province against Sunday liquor-selling can outlive the decision, not a little could be argued in favor of the proposition.

Granting that Chief Justice Armour's theory is correct would it be possible to secure a conviction under C.S.U.C. c. 104? It must be remembered that prosecutions of this nature are usually instituted as the result of evidence by decoys. Under the above statute the informant is incompetent as a witness. The Evidence Act of the Dominion as well as of the Province, declares that interest shall no longer be a bar to the admission of a complainant's testimony, but the Upper Canada statute cannot of course receive any bolstering from such acts. It has to stand on its own legs. The laying in every case of an information on oath is obligatory, and the wording of the section which prescribes this would seemingly debar statements on mere information and belief. Enforcement is in addition much hampered by the limitation of one month for the bringing of charges. But the most serious difficulty, perhaps, is the absolute contradiction of the penalty clauses by the form inserted in the act which the justice is directed to follow. Fines are by the section recoverable by imprisonment only after a previous distress—which, by the way, the justice may order, "if he deems it expedient to do so," whereas the form authorizes its direct infliction. Since a justice will be compelled to go to the section to ascertain the term, it is hard to see how the dilemma is to be met. A prime curiosity about the act is that, although it confers an appeal, a defendant really cannot resort