

ONTARIO LORD'S DAY LAWS

WITH
INTRODUCTORY NOTES AND
OTHER INFORMATION

- I. Ante-Confederation Lord's Day Act.
 - II. Shops Regulation Act.
 - III. Liquor License Act.
 - IV. Game Protection Act.
 - V. The Railway Act.
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As both Dominion and Provincial Laws are in force, it would be wise
to communicate with the Head Office before initiating proceedings.

Issued by
THE ONTARIO LORD'S DAY ALLIANCE
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LORD'S DAY LAWS OF ONTARIO

In addition to the Lord's Day Act of Canada, R.S.C., 1906, c. 153, which applies to the whole Dominion, there are several important Provincial Statutes affecting the Lord's Day, directly or indirectly, in force in Ontario.

I.—THE ACT OF 1845, C.S.U.C., CAP. 104.

L.D.A.

The Privy Council's decision of 1903 invalidating the Ontario Lord's Day Act, *ipso facto* declared the ante-Confederation Law of 1845 (C.S.U.C., Cap. 104) to be in force. And the new Lord's Day Act of Canada, section 14, expressly declares that this and all other Provincial laws respecting the Lord's Day now in force are unrepealed and unaffected, and that offences may be dealt with either under the Dominion or under these Provincial laws. The B.N.A. Act confirms all the ante-Confederation criminal laws and makes them permanently valid, unless repealed or amended by the Dominion Parliament. Hence the constitutionality of this law (C.S.U.C., Cap. 104) cannot be questioned. It is as follows:—

Business and
work pro-
hibited.

Works of
necessity and
charity
excepted.

1. "It is not lawful for any merchant, tradesman, artificer, mechanic, workman, labourer, or other person whatsoever, on the Lord's Day to sell or to publicly show forth, or expose, or offer for sale, or to purchase any goods, chattels, or other personal property, or any real estate whatsoever, or to do or exercise any worldly labor, business or work of his ordinary calling (conveying travellers or Her Majesty's mail by land or by water, selling drugs and medicines, and other works of necessity and works of charity only excepted)." 1845.

[Note. (a) "Other person whatsoever" has been interpreted by the Courts, English and Canadian, on the principle that where a universal phrase follows a specific list, the universal is to be understood as including only those *ejusdem generis* of the same class as those preceding. Hence, this section does not apply to professional men. They are not *ejusdem generis* with "merchants," or "laborers." "Farmers," were in England "gentlemen," and therefore are not included. "Barbers," too, who of old were "surgeons," professional men, and therefore not "other persons whatsoever" within the meaning of the law. But see The Shops Regulation Act in this leaflet.

(b) It is only the work of one's "ordinary calling" that is prohibited, not work as such, not even work for hire. Hence even men of the classes named may lawfully labor for hire on the Lord's Day at things other than "of their ordinary calling."

(c) The word "person" was held in "The Attorney General vs The Hamilton Street Railway," and in "Rex vs. Reid" (the Midland elevator case), not to apply to railway corporations as such, nor to their servants. Hence any kind of work done for or by a railway corporation, possibly by or for any corporation, is, as far as this Act is concerned, lawful.

(d) Of course, the new Dominion law, R.S.C., 1906, Cap. 153, is not subject to any of these limitations.]

Tipping,
lawling,
swearing, etc.

2. "It is not lawful for any person on that day to hold, converse, or to attend any public political meeting, or to drink, or to allow or permit tipping in any inn, tavern, grocery or house of public entertainment, or to revel, or publicly exhibit himself in a state of intoxication, or to brawl, or use profane language in the public streets or open air, so as to create any riot, or disturbance, or annoyance to Her Majesty's peaceable subjects."

[Note. This and the succeeding sections apply to all persons, and are not limited as section 1.]

Games and
races.

3. "It is not lawful for any person on that day to play at skittles, ball, football, racket, or any other noisy game, or to gamble with dice or otherwise, or to run races on foot, or on horseback, or in carriages, or in vehicles of any sort."

4. "Except in defence of his property, from any wolf or other ravenous beast, Hunting and or a bird of prey, it is not lawful for any person on that day to go out hunting or shoot-shooting, ing or in quest of, or to take, kill or destroy any deer or other game, or any wild animal, or any wild fowl or bird, or to use any dog, gun, rifle, or other engine, net or trap, for the above mentioned purpose."

5. "It is not lawful for any person on that day to go out fishing, or to take, kill or destroy any fish, or to use any gun, fishing rod, net or other engine for that purpose." Fishing

6. "It is not lawful for any person on that day to bathe in any exposed situation in any water within the limits of any incorporated city or town, or within view of any place of Public Worship, or private residence." Bathing

7. "Any person convicted before a Justice of the Peace of any act hereinbefore declared not to be lawful, upon the oath or affirmation of one or more than one credible witness, or upon view had of the offence by the said Justice himself, shall, for every such offence, be fined in a sum not exceeding forty dollars, nor less than one dollar, together with the costs and charges attending the proceedings and conviction." Conviction and penalty.

[Note. In default of payment he is liable to imprisonment for not more than three months.]

8. "All sales and purchases, and all contracts and agreements for sale or purchase, of any real or personal property whatsoever, made by any person or persons on the Lord's Day shall be utterly null and void." Sales, etc., null and void

[Note. (a) It is preferred that the person who lays the information under this law should not be a witness also.

(b) Proceedings must be begun within one month from the committal of the offence.

(c) It is the duty of the Crown Attorneys to conduct cases, upon instructions being received from the Attorney General.

(d) The consent of the Attorney General is not necessary before taking action.]

(e) This Act does not apply to Indians, nor to companies operating under a Dominion charter.

II.—SHOPS REGULATION ACT.

R.S.O., CAP. 257; and 1 Ed. VII., CAP. 36.

Bakers must not work on the Lord's Day except by permission of the Inspector. Sec. 2.

Barber shops must not be open, or work done therein on the Lord's Day. (Sec. 3.)

Penalties: From \$20.00 to \$100.00, and costs, or from 30 days to one year.

III.—LIQUOR LICENSE ACT.

6 Ed. VII., CAP. 47, SEC. 13.

Liquor must not be sold under any circumstances except upon requisitions for medical purposes, between 7.00 p.m. Saturday, and 6.00 a.m. Monday.

Bar-rooms must be kept closed during these prohibited hours.

Penalties: First offence, \$50.00 to \$100.00, or one month. Second offence, \$100.00 to \$200.00, or three months. Third offence, \$200.00, to \$400.00, or five months.

IV.—THE ONTARIO GAME PROTECTION ACT.

7 Ed. VII., CAP. 49, SEC. 13.

"No person shall, on the Lord's Day, hunt, take, kill or destroy any game, or use any gun or other engine for that purpose." No hunting on the Lord's Day.

[See also C.S.U.C., c 104, Sec. 4, at top of this page; also R.S.C., 1906, c. 153, in separate pamphlet.]

THE ONTARIO RAILWAY ACT, 1906.

Prohibits electric railways in general within the province from operating on the Lord's Day. 6 Edw. VII., Chap. 30, Sec. 193.

(1) No company or municipal corporation operating a street railway, tramway or electric railway, shall operate the same or employ any person thereon on the first day of the week commonly called Sunday, except for the purpose of keeping the track clear of snow or ice, or for the purpose of doing other work of necessity.

(2) Notwithstanding anything in this Act or in the special Act or in any agreement contained, companies which have before the first day of April, 1897, regularly run cars on Sunday may hereafter do so, but the foregoing subsection shall not confer any right so to run cars on Sunday not now possessed by such companies nor shall it affect or apply to any company which has by its charter or by any special Act the right or authority to run cars on Sunday nor shall it affect the right (if any) of the Toronto Railway Company to run cars on Sunday; nor shall it affect the right of any railway company to run cars or trams as provided in subsection 2 of section 133 of Chapter 209 of the Revised Statutes of Ontario, 1897, which right shall be continued as though such statute stood unrepealed.

(3) For every train or car run or operated in violation of this section, the company shall forfeit and pay the sum of \$500, to be recovered in any court having jurisdiction in civil cases, for the amount, by any person suing for the same under this section and for the purpose thereof. The action for the recovery of the said sum shall be brought before a court having jurisdiction as aforesaid in the place from which such train or car started, or through which it passed or in which it stopped in the course of such operation.

(4) All moneys recovered under the provisions of this section shall be appropriated as follows: One moiety thereof to the plaintiff and the other moiety to the local municipality from which the train or car started; but if the train or car is operated by the municipality from within whose limits the same started, the plaintiff shall receive the whole amount so recovered.

(5) The conductor or other person in charge of any train or car run or operated in violation of the provisions of this section shall be liable for every such offence to a penalty not exceeding \$50 nor less than \$1, besides costs, and the same shall be recoverable on summary conviction.

(6) This section shall apply to all railways operated by electricity and street railways whether they are operated on a highway or on a right of way owned by the company.

Sec. 197 gives electric and street railway companies the power to acquire lands for parks, etc., and concludes as follows:

No such park or pleasure grounds shall be used for games, picnics, concerts, excursions, or other public entertainments on Sunday.

[Note. (a) No prosecution can be instituted or penalty enforced under this Act except by leave of the Ontario Railway and Municipal Board. See 6 Ed. VII., Chap. 31, Sec. 47, (3).]

(b) There are many electric railways in Ontario having Dominion charters. These are not subject to Provincial jurisdiction in general. But by Order-in-Council, gazetted at Ottawa, Nov. 24th, 1906, the foregoing sections of the Ontario Railway Act are in terms of Cap. 37, Sec. 9 R.S.C., 1906, made to apply with certain limitations to these roads. See leaflet "Lord's Day Act of Canada," page 8.]

THE ONTARIO LORD'S DAY ALLIANCE

Secretary, Rev. W. G. Hanna, B.A.,

General Secretary, Lord's Day Alliance of Canada,

Rev. T. Albert Moore,

610 Confederation Life Building,

Toronto, Ont.

