

THE LORD'S DAY ACT OF CANADA

[R.S.C. 1906 CHAPTER 153]

WITH

NOTES ON ITS INTERPRETATION AND INFORMATION AS TO ITS ENFORCEMENT

THESE NOTES AND INFORMATION ARE
WITHIN BRACKETS AFTER EACH
SECTION OR SUBSECTION

ISSUED BY
THE LORD'S DAY ALLIANCE OF CANADA

General Offices:
542 Confederation Life Building, Toronto.

THE LORD'S DAY ACT

Title—An Act Respecting the Lord's Day

SHORT TITLE.

Short Title.

1. This Act may be cited as the Lord's Day Act.

INTERPRETATION.

- "The Lord's Day." 2. In this Act, unless the context otherwise requires,—
(a) "Lord's Day" means the period of time which begins at twelve o'clock on Saturday afternoon and ends at twelve o'clock on the following afternoon.
[This is the correct legal terminology for midnight Saturday to midnight Sunday.]
- "Person." (b) "Person" has the meaning which it has in the Criminal Code.
[Company, corporation, municipality, etc., are included.]
- "Vessel." (c) "Vessel" includes any kind of vessel or boat used for conveying passengers or freight by water.
- "Railway." (d) "Railway" includes steam railway, electric railway, street railway and tramway.
- "Performance." (e) "Performance" includes any game, match sport, contest, exhibition or entertainment.
- "Employer." (f) "Employer" includes every person to whose orders or directions any other person is by his employment bound to conform.
[For liability of employers see section 11.]
- "Provincial Act." (g) "Provincial Act" means the Charter of any Municipality or any Public Act of any province whether passed before or since Confederation.
6 E. VII, c. 27, s. 1.
- Dominion Railways. 3. Nothing herein shall prevent the operation on the Lord's Day for passenger traffic by any railway company incorporated by or subject to the legislative authority of the Parliament of Canada of its railway where such operation is not otherwise prohibited. 6 E. VII, c. 27, s. 13.
[See also Cap. 37 Revised Statutes of Canada, 1906, in this leaflet.]
- Operation of Provincial Railways. (2) Nothing herein shall prevent the operation on the Lord's Day for passenger traffic of any railway subject to the legislative authority of any province, unless such railway is prohibited by provincial authority from so operating. 6 E. VII, c. 27, s. 13.
[Write us for information as to whether the laws of your Province dealing with provincially-incorporated steam or electric railways, give the right to operate on the Lord's Day.]

PROHIBITIONS.

- No sales to be made or business or work done on the Lord's Day. 4. It shall not be lawful for any person on the Lord's Day, except as provided herein, or in any Provincial Act or law now or hereafter in force, to sell or offer for sale or purchase any goods, chattels, or other personal property, or any real estate, or to carry on or transact any business of his ordinary calling, or in connection with such calling, or for gain to do, or employ any other person to do, on that day, any work, business or labour. 6 E. VII, c. 27, s. 2.
[This is the main prohibitory section. It is of universal application. No class is exempt. It prohibits the work and business of one's ordinary calling, and any work done for gain.
Sections 6 to 11 are also prohibitory, covering special ground.]

"Except as provided in any Provincial Act or law now or hereafter in force," neither delegates to nor confers on the Provinces power to legislate, nor does it validate Provincial laws if these are *ultra vires*. Whether the Provinces have any power to legislate on the Lord's Day question, and to what extent is determined by the British North America Act, as it has been or may yet be interpreted by the Courts.]

5. Except in cases of emergency, it shall not be lawful for any person to require any employee engaged in any work of receiving, transmitting or delivering telegraph or telephone messages, or in the work of any industrial process, or in connection with transportation, to do on the Lord's Day the usual work of his ordinary calling, unless such employee is allowed during the next six days of such week, twenty-four consecutive hours without labour. 6 E. VII, c. 27, s. 4. Substitution of another holiday for the Lord's Day.

5. (2) This section shall not apply to any employee engaged in the work of any industrial process in which the regular day's labour of such employee is not of more than eight hours' duration.

6. It shall not be lawful for any person, on the Lord's Day, except as provided in any Provincial Act or law now or hereafter in force, to engage in any public game or contest for gain, or for any prize or reward, or to be present thereat, or to provide, engage in, or be present at any performance or public meeting, elsewhere than in a church, at which any fee is charged, directly or indirectly, either for admission to such performance or meeting, or to any place within which the same is provided, or for any service or privilege thereat. 6 E. VII, c. 27, s. 5. Games and performances where admission fee is charged.

[See also the laws of the various Provinces. In Ontario all noisy games are prohibited; in New Brunswick and Prince Edward Island, all games. See note on Section 5 re jurisdiction of Provinces.]

(2) When any performance at which an admission fee or any other fee is so charged is provided in any building or place to which persons are conveyed for hire by the proprietors or managers of such performance or by any one acting as their agent or under their control, the charge for such conveyance shall be deemed an indirect payment of such fee within the meaning of this Section. 6 E. VII, c. 27, s. 5. Charges for conveyance to performance.

7. It shall not be lawful for any person on the Lord's Day, except as provided by any Provincial Act or law now or hereafter in force, to run, conduct, or convey by any mode of conveyance any excursion on which passengers are conveyed for hire, and having for its principal or only object the carriage on that day of such passengers for amusement or pleasure, and passengers so conveyed shall not be deemed to be travellers within the meaning of this Act. 6 E. VII, c. 27, s. 6. Excursions by conveyances where fee is charged.

[See note on Section 5 re jurisdiction of Provinces.]

8. It shall not be lawful for any person to advertise in any manner whatsoever any performance or other thing prohibited by this Act. Advertisements of prohibited performances, etc., where ever taking place.

(2) It shall not be lawful for any person to advertise in Canada in any manner whatsoever any performance or other things which if given or done in Canada would be a violation of this Act. 6 E. VII, c. 27, s. 7.

[This covers the advertising of excursions, theatricals, sports, etc., which are to be held across the frontier on the Lord's Day.]

9. It shall not be lawful for any person on the Lord's Day to shoot with or use any gun, rifle or other similar engine, either for gain, or in such a manner or in such places as to disturb other persons in attendance at public worship or in the observance of that day. 6 E. VII, c. 27, s. 8. Shooting.

[Shooting a game is prohibited by the Game and Lord's Day laws of each Province.]

10. It shall not be lawful for any person to bring into Canada for sale or distribution, or to sell or distribute within Canada, on the Lord's Day, any foreign newspaper or publication classified as a newspaper. 6 E. VII, c. 27, s. 9. Sale of foreign newspapers on the Lord's Day.

[Note that this prohibits the importation on any day, for sale or distribution on the Lord's Day, as well as all sales and distribution on that day of foreign newspapers, or publications classified as newspapers, no matter on what day they are published. This will apply to distribution by any method.]

WORKS OF NECESSITY AND MERCY EXCEPTED

Works of necessity and mercy not prohibited.

11. Notwithstanding anything herein contained, any person may on the Lord's Day do any work of necessity or mercy, and for greater certainty, but not so as to restrict the ordinary meaning of the expression "work of necessity or mercy," it is hereby declared that it shall be deemed to include the following classes of work:—

[This section, with its list of sub-sections, indicates the exceptions to the absolute prohibitions of Sections 5 to 11. Anything in the way of business, work or labor for gain, *not* included in this list, is prohibited by Section 5, unless it is clearly on other grounds a "work of necessity or mercy". Each of these sub-sections must be read in conjunction with Section 5.]

Divine Worship.

(a) Any necessary or customary work in connection with divine worship.

The relief of sickness and suffering.

(b) Work for the relief of sickness and suffering, including the sale of drugs, medicines and surgical appliances by retail.

[For example, the work of physicians, nurses, ambulance corps, etc. It would not include the work of a dentist, unless the work was for "the relief of sickness and suffering". Manufacturing and repairing of teeth would not be included.

Note that the druggist can, on the Lord's Day, sell only "drugs, medicines and surgical appliances"—nothing else—and these only when wanted "for the relief of sickness and suffering". He cannot sell cigars, drinks, stamps, magazines, etc.

Neither can these be sold in hotels or elsewhere under any circumstances.]

Telegraph and Telephone Messages.

(c) Receiving, transmitting, or delivering telegraph or telephone messages.

Continuous industrial processes.

(d) Starting or maintaining fires, making repairs to furnaces and repairs in cases of emergency, and doing any other work, when such fires, repairs or work are essential to any industry or industrial process of such a continuous nature that it cannot be stopped without serious injury to such industry, or its product, or to the plant or property used in such process.

[Note that general repairs, alterations, or installation of plant, are not here provided for. They can be done other days, and are therefore unlawful on the Lord's Day.

Note, also, that the permission here given is limited absolutely to industries or industrial processes "of such a *continuous* nature that they cannot be stopped without serious injury, etc." and includes only the *unavoidable* work in connection with these processes. Any work that can be avoided on that day by putting in facilities for storing such quantities of raw material, fuel, or the product, as will keep the process going over Sunday, is not by this subsection permitted.]

Work in Mines.

(e) Starting or maintaining fires, and ventilating, pumping out and inspecting mines, when any such work is essential to the protection of property, life or health.

Light, heat, storage, water.

(f) Any work without the doing of which on the Lord's Day, electric current, light, heat, cold air, water or gas cannot be continuously supplied for lawful purposes.

Conveying travellers.

(g) The conveying of travellers and work incidental thereto.

[Work "incidental thereto" would probably include the conveying of personal baggage.

The work of newsagents on trains or platforms, or in stations is absolutely prohibited by Section 5.]

Freight trains and vessels.

(h) The continuance to their destination of trains and vessels in transit when the Lord's Day begins, and work incidental thereto.

[It follows from this that the making up and starting out on the Lord's Day of freight trains and freight vessels is prohibited. See note on (t).

The Board of Railway Commissioners of Canada, has issued an order as provided in (x) of this section, granting to railway companies under its jurisdiction the privilege "in order to prevent undue delay" to perform all work necessary upon the Lord's Day for the delivery to their several destinations of freight cars that were in transit when the Lord's Day began. See also note to Subsec. (l) of this Section.

See our Leaflet "The Railways and the Lord's Day Act" for specific information as to prohibitions of Railway work under this Act.

"Work incidental thereto" may include that of the necessary employees along the line.]

(i) Loading and unloading merchandise at intermediate points, on Express and freight.
or from passenger boats or passenger trains.

[Note that this permission is limited to PASSENGER trains and boats, and to INTERMEDIATE points.]

(j) Keeping railway tracks clear of snow or ice, making repairs in cases of emergency, or doing any other work of a like incidental character necessary to keep the lines and tracks open on the Lord's Day. Keeping R.R. tracks open.

[Note that no general repair work on tracks or in shops is allowed, only in cases of emergency, and only where "necessary to keep the lines and tracks open," and that construction work on roadbed, bridges, buildings, or rolling stock is absolutely prohibited.]

(k) Work before six o'clock in the forenoon and after eight o'clock in the afternoon of yard crews in handling cars in railway yards. Work of Yard Crews.

[It follows that these shunting crews can be on duty only before 6.00 a.m. and after 8.00 p.m. to do the necessary work incidental to the shunting of passenger trains, and of freight trains that were in transit when the Lord's Day began.]

(l) Loading, unloading and operating any ocean-going vessel which otherwise would be unduly delayed after her scheduled time of sailing, or any vessel which otherwise would be in imminent danger of being stopped by the closing of navigation; or loading or unloading before seven o'clock in the morning or after eight o'clock in the afternoon any grain, coal or ore carrying vessel after the fifteenth of September. Loading and unloading boats.

[The Board of Railway Commissioners of Canada has issued an order as provided in (x) of this section, granting permission to railway companies under its jurisdiction in order to prevent undue delay, to "Unload grain from vessels at lake ports in Ontario and load grain into cars at such ports between September 15th in any year and June 1st in the year following, upon the Lord's Day, and between said dates do such work as may be necessary for the purpose of furnishing to and from lake ports in Ontario a continuous railway service for carrying grain from elevators and vessels upon the Lord's Day." See also note to Sec. (h).]

Except within these limits, loading and unloading of freight vessels is prohibited.]

(m) The caring for milk, cheese, and live animals, and the unloading of Milk, cheese, and animals.
of and caring for perishable products and live animals, arriving at any point during the Lord's Day.

[Hauling milk to factories, and making cheese, or butter, even out of Saturday night's milk, is not here allowed, only "caring for" the things named.]

(n) The operation of any toll or drawbridge, or any ferry or boat authorized by competent authority to carry passengers on the Lord's Day. Toll bridges and ferries.

[Unless authorized expressly to carry passengers "on the Lord's Day," it is unlawful for boats or ferries to do so. There is some uncertainty as to what powers have jurisdiction to authorize this traffic "on the Lord's Day". Only the Dominion Government has jurisdiction over international and interprovincial ferries. Provincial Governments have jurisdiction over ferries running between municipalities within the Province. But there is serious doubt as to the provinces having power to authorize such traffic "on the Lord's Day". Possibly only the Dominion Government can do this on any ferry or boat.]

(o) The hiring of horses and carriages or small boats for the personal use of the hirer or his family for any purpose not prohibited by this Act. Liveries.

[This does not permit the operation of tally-ho's or other sight-seeing or touring conveyances in which people are carried for hire; or the hiring of conveyances for purposes of business, labor, or pleasure excursions.]

(p) Any unavoidable work after six o'clock in the afternoon of the Lord's Day, in the preparation of the regular Monday morning edition of a daily newspaper. Monday morning papers.

[The publication, sale, and distribution of papers on the Lord's Day is absolutely prohibited by Section 5.

For foreign papers see also Section 11.

The distribution of papers, Canadian or foreign, even to regular subscribers, is not permitted on the Lord's Day. This applies to hotels, news stands, and on trains, as well as to homes and streets.]

- Mails.** (g) The conveying His Majesty's mails and work incidental thereto.
[It is probable that this does not allow the *distribution* of mail to boxes or other work within Post Offices which is not "incidental to the conveying of mails".]
- Milk, servants, watchmen.** (r) The delivery of milk for domestic use, and the work of domestic servants and watchmen.
[It is doubtful if this will permit the delivery of milk to dairymen or milk dealers.]
- International and interprovincial electric railways.** (s) The operation by any Canadian electric street railway company, whose line is interprovincial or international, of its cars, for passenger traffic, on the Lord's Day, on any line or branch which is, on the day of the coming into force of this Act, regularly so operated.
- Government service.** (t) Work done by any person in the public service of His Majesty while acting therein under any regulation or direction of any Department of the Government.
- Fishermen.** (u) Any unavoidable work by fishermen after six o'clock in the afternoon of the Lord's Day, in the taking of fish.
[This simply harmonizes with the Fisheries regulations.]
- Maple Sugar.** (v) All operations connected with the making of maple sugar and maple syrup in the maple grove.
- Saving property in case of fire, flood, etc.** (w) Any unavoidable work on the Lord's Day to save property in cases of emergency, or where such property is in imminent danger of destruction or serious injury.
- Board of Railway Commissioners.** (x) Any work which the Board of Railway Commissioners for Canada, having regard to the object of this Act, and with the object of preventing undue delay, deems necessary to permit in connection with the freight traffic of any railway. 6 E. VII, c. 27, s. 3.
[See also R.S.C. 1906, c. 37, s. 44 re notice of application, payment of costs, &c.]

OFFENCES AND PENALTIES.

- Penalty for infraction of Act.** 12. Any person who violates any of the provisions of this Act shall for each offence be liable, on summary conviction, to a fine, not less than one dollar and not exceeding forty dollars, together with the cost of prosecution. 6 E. VII, c. 27, s. 10.
- Employer's liability for unlawful acts.** 13. Every employer who authorizes or directs anything to be done in violation of any provision of this Act, shall for each offence be liable, on summary conviction, to a fine not exceeding one hundred dollars and not less than twenty dollars, in addition to any other penalty prescribed by law for the same offence. 6 E. VII, c. 27, s. 11.
[For definition of "employer" see Section 2, Subsection (f).]
- Liability of corporation permitting unlawful acts.** 14. Every corporation which authorizes, directs or permits its employees to carry on any part of the business of such corporation in violation of any of the provisions of this Act, shall be liable, on summary conviction before two justices of the peace, for the first offence, to a penalty not exceeding two hundred and fifty dollars and not less than fifty dollars, and, for each subsequent offence, to a penalty not exceeding five hundred dollars and not less than one hundred dollars, in addition to any other penalty prescribed by law for the same offence. 6 E. VII, c. 27, s. 12.
[A Police Magistrate has the same jurisdiction as two Justices of the Peace.]

PROCEDURE.

- Provincial Lord's Day Acts not affected.** 15. Nothing herein shall be construed to repeal or in any way affect any provisions of any Act or law relating in any way to the observance of the Lord's Day in force in any province of Canada when this Act comes into force; and where any person violates any of the provisions of this Act, and such offence is also a violation of any other Act or law, the offender may be proceeded against either under the provisions of this

Act or under the provisions of any other Act or law applicable to the offence charged. 6 E. VII, c. 27, s. 14.

[This conserves all the ante-Confederation provincial Lord's Day laws as well as valid laws affecting liquor, game, and provincial steam or electric railways. These are printed and explained in other leaflets.]

16. No action or prosecution for a violation of this Act shall be commenced without the leave of the Attorney-General for the province in which the offence is alleged to have been committed, nor after the expiration of sixty days from the time of the commission of the alleged offence. 6 E. VII, c. 27, s. 15.

[Ordinarily application should be made by letter, using the form printed herewith. In cases of violation by travellers who could not readily be subpoenaed after leaving the place where the offence was committed, the Attorney-General can be applied to by telephone or telegraph. The party who applies would then require to go before the Magistrate and satisfy him that he had obtained the consent of the Attorney-General before laying the information.]

It will in most cases be advisable to communicate with the General or one of the Associate Secretaries of the Lord's Day Alliance before initiating proceedings.]

[SUMMARY.]

The following brief summary is added:

THE LORD'S DAY ACT OF CANADA PROHIBITS ON SUNDAY

(1) *All Labor.* This includes All Farm Work, such as Seeding, Haying, Harvesting, Fencing, Ditching, etc. It includes also all Teaming, Land-Hunting, Building, Driving for Business Purposes, etc. Works of necessity and mercy are excepted.

(2) *All Business.* It is unlawful to Buy, Sell, or Deliver Anything on Sunday, including Liquors, Cigars, Newspapers, etc. The only exceptions are Meals and Medicines.

(3) *All Public Games or Sports* for any Prize or Reward and the business of Amusement or Entertainment.

(4) *Excursions* for hire and with the object of pleasure, by Train, Steamer, or other Conveyance.

(5) *Advertising* in Canada unlawful things to take place on Sunday, either in Canada or across the line.

(6) *Importing, Selling or Distributing Foreign Newspapers* on Sunday.

(7) *All Work on Railways*—Building or Construction. Repair Work, except in emergencies. Traffic except Passenger and Through Freight Trains.

PERMITS ON SUNDAY

(1) *Certain Employments of a Continuous Nature.* (Section 6.) But requires that persons so employed on Sunday shall have *Another Holiday* during the week.

(2) *All Works of Necessity and Mercy.* (Section 12.) A number of these are mentioned under this section.

THE PENALTIES

From \$1.00 to \$40.00 for any person committing a violation.

From \$20.00 to \$100.00 for any employer authorizing or directing a violation. This includes Foremen, Superintendents, Managers, etc.

From \$50.00 to \$500.00 for any Corporation authorizing, directing or permitting a violation.

It is the duty of Constables and Police to see that these Laws are observed.]

Any infraction should be promptly reported to the Authorities, or

THE LORD'S DAY ALLIANCE OF CANADA
542 Confederation Life Building, Toronto, Ont.

The Railway Act of Canada, R.S.C., 1906, C. 37, S. 9, Affecting Dominion-Incorporated Electric Railways

See also "The Lord's Day Act," R.S.C., 1906, c. 153 and the various provincial laws affecting electric railways.

The electric railway laws of Ontario, Manitoba and Alberta *re* operation on the Lord's Day have been proclaimed by Order-in-Council.

New Section.

Provincial
Sunday
observance
laws to apply
to local
railways.

R.S.C., 1906, c. 37, s. 9, is as follows:—

"1. Notwithstanding anything in this Act, or in any other Act, every railway, steam or electric street railway, or tramway situate wholly within one province of Canada, and declared by the Parliament of Canada to be either wholly or in part a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality owning, controlling or operating the same wholly or partly, in respect of such ownership, control or operation, shall be subject to any Act of the legislature of the province in which any such railway or tramway is situate which was in force on the 10th day of August, one thousand nine hundred and four, in so far as such Act prohibits or regulates work, business or labour upon the first day of the week, commonly called Sunday.

"2. Every such Act, in so far as it purports to prohibit, within the legislative authority of the province, work, business or labor upon the said first day of the week, is hereby ratified and confirmed and made as valid and effectual, for the purposes of this section, as if it had been duly enacted by the Parliament of Canada.

Confirmation
of provincial
law by
Governor in
Council.

"3. The Governor in Council may by proclamation, confirm, for the purposes of this section, any Act of the legislature of any province passed after the tenth day of August, one thousand nine hundred and four, in so far as such Act purports to prohibit or regulate, within the legislative authority of the province, work, business or labor upon the said first day of the week; and such Act shall, to the extent aforesaid, be by force of such proclamation, ratified and confirmed, and made as valid and effectual, for the purposes of this section, as if it had been enacted by the Parliament of Canada.

"4. Notwithstanding anything in this Act, or in any other Act, every railway, steam or electric street railway or tramway, wholly situate within the province, and which has been declared by the Parliament of Canada to be, in whole or in part, a work for the general advantage of Canada, and every person employed thereon, in respect of such employment, and every person, company, corporation or municipality, owning, controlling or operating the same wholly or partly, in respect of such ownership, control or operation, shall, from and after such proclamation, be subject to such Act in so far as it has been so confirmed.

Certain
Railways
excepted.

"5. Nothing in this section shall apply to any railway or part of a railway,—

(a) which forms part of a continuous route or system operated between two or more provinces, or between any province and a foreign country, so as to interfere with or affect through traffic thereon; or,

(b) between any of the ports on the Great Lakes and such continuous route or system, so as to interfere with or affect through traffic thereon; or,

(c) which the Governor in Council by proclamation declares to be exempt from the provisions of this section. 4 E. VII, c. 32, s. 2."