

Provincial Statutes of Canada, passed in the year 1845. Montreal: Stewart Derbishire & George Desbarats, 1845.

8 Victoria – Chapter 45

An Act to prevent the Profanation of the Lord's Day, commonly called Sunday, in Upper Canada. (29th March, 1845.)

Whereas it is expedient to enact a Law against the profanation of the Lord's Day, commonly called Sunday, which day ought, to be duly observed and kept holy: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada," and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall not be lawful for any Merchant, Tradesman, Artificer, Mechanic, Workman, Labourer, or other person whatsoever, within that part of this Province which formerly constituted the Province of Upper Canada, to sell or to publicly shew forth, or expose, or offer for sale, or to purchase any wares, merchandizes, goods, chattels, or personal property, or any real estate whatsoever, on that day, nor to do or exercise any worldly labour, business, or work of their respective ordinary callings, upon the Lord's Day, (conveying Travellers or Her Majesty's Mail, by land or water, selling Drugs and Medicines, and such other works of necessity, and also works of charity, only excepted) nor shall it be lawful for any person or persons to tittle, or to allow or permit tipping in any Inn, Tavern, Grocery, or House of Public Entertainment, or to revel, or publicly exhibit himself or herself 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 on that day, or to hold, convene or attend any public political meeting on that day; nor shall it be lawful for any person or persons to play at skittles, ball, foot-ball, 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, on that day; nor shall it be lawful for any person or persons to go out fishing or hunting or shooting, 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 fish, except as next hereinafter mentioned, or to use any dog, gun, rifle, or other engine, or any fishing rod, net or trap, for the above mentioned purpose, on the Lord's Day, except in defence of his, her or their property, from any wolf or other ravenous beast or bird of prey; nor shall it be lawful for any person or persons to bathe in any exposed situation in any water within the limits of any incorporated City or Town, nor within view of any place of Public Worship, or private residence, on the Lord's Day.

II. And be it enacted, That all sales and purchases, and all contracts and agreements for sale or purchase of any real or personal property whatsoever, hereafter made by any person or persons on the Lord's Day, shall be, and the same are hereby declared to be utterly null and void; any law, custom or usage to the contrary notwithstanding.

III. And be it enacted, That if any such Merchant, Tradesman, Artificer, Mechanic, Workman, Labourer, or other person whatsoever, shall, from and after the passing of this Act, sell, or publicly shew forth, or expose, or offer for sale, or shall purchase any wares, merchandizes, goods, chattels, or personal property, or any real estate whatsoever, on the Lord's Day, commonly called Sunday, as aforesaid, or shall do, or exercise any worldly labour, business, or work of their respective ordinary callings, (except as hereinbefore excepted,)—or if any person or persons shall tittle, or allow or permit tipping in any Inn, Tavern, Grocery, or House of Public Entertainment, or shall revel, or publicly exhibit himself or herself in a state of intoxication, or shall brawl, or use profane language in the public streets, or open air, thereby creating any disturbance or annoyance to Her Majesty's peaceable subjects on that day,—or shall hold, convene, or attend any public political meeting on that day,—or shall play at skittles, ball, foot-ball, racket, or any other noisy game, or shall gamble with dice or otherwise, or shall run races on foot or on horseback, or in carriages, or vehicles of any sort on that day,—or if any person or persons shall go out fishing, or hunting or shooting, or in quest of, or shall take, kill, or destroy any deer or other game, or any wild animal, bird, or wild fowl, or fish, except as next hereinafter mentioned, or shall use any dog, fishing rod, gun, rifle, or other machine, or shall set any net or trap for the above mentioned purposes on that day, except in defence of his, her or their property from any wolf, or other ravenous beast or bird of prey, or shall 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, on the Lord's Day; such person or persons being convicted of any or either of the offences hereinbefore mentioned, before a Justice of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, (which oath or affirmation the Justice is hereby authorized to administer,) or upon view had of the offence by the said Justice himself, shall pay a fine or penalty not exceeding ten pounds, nor less than five shillings, current money of this Province, for each offence, together with the costs and charges attending the proceedings and conviction.

IV. And be it enacted, That when any person shall be charged upon oath or otherwise, in writing, before any Justice of the Peace, with any offence against this Act, the said Justice shall summon the person so charged to appear before him, at a time and place to be named in such Summons, and if such person shall fail or neglect to appear accordingly, then (upon proof of due service of the Summons upon such person, by delivering Or leaving a copy thereof at his house, or usual or last place of abode, or by reading the same over to him personally,) the said Justice may either proceed to hear and determine the case ex parte, or issue his Warrant for apprehending such person, and bringing him before himself, or some other Justice of the Peace within the same District; and the Justice before whom the person charged shall appear or be brought, shall proceed to hear and determine the case, or the said Justice may, (if he deems it expedient so to do,) on view of the offence, verbally order (but if on the complaint of a third party, then he shall in writing, order) the offender or offenders to beat once committed (although it be on the Lord's Day) to the common gaol of the place, or into other safe custody, there to remain until the morrow, or some other day, according to circumstances, until the case be heard and disposed of.

V. And be it enacted, That the Justice before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, as the case shall require, that is to say:

“Be it remembered, that on the ____ day of ____ in the year of our Lord Eighteen ____ at ____ in the County of ____ (or District, Riding or Division, as the case may be,) A. B. of ____ is convicted before me C. D. one of Her Majesty’s Justices of the Peace for the said County (or District, of Riding or Division, as the case may be,) for that he the said A. B. did (specify the offence, and the time and place, when and where the same was committed, as the case may be;) and I, the said C. D. adjudge the said A. B. for his offence to pay (immediately, or on or before the day ____ of ____) the sum of _____, and also the sum of _____ for costs; and in default of payment of the said sums respectively, to be imprisoned in the common gaol of the said County (or District, or Riding or Division, as the case may be,) for the space of ____ months, unless the said sums shall sooner be paid; and I direct that the said sum of (the penalty,) shall be paid as follows, that is to say: one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the District, to be by him, the said Treasurer, applied according to the provisions of the Act (insert the title of this Act.)”

“Given under my hand and seal, the day and year first above mentioned.”

C. D., J. P. [L. S.]

VI. And be it enacted, That a conviction under this Act shall not be quashed for want of form; nor shall any Warrant of Commitment be held void by reason of any defect therein: Provided that it be alleged that the party has been committed, and there be a good and valid conviction to sustain the same.

VII. And be it enacted, That in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof at the time of conviction, by the Justice of the Peace before whom such conviction shall have taken place, it shall and may be lawful for such Justice of the Peace (if he deems it expedient so to do) to issue his Warrant directed to any Constable to levy the amount of such fine and costs within a certain time, to be in the said Warrant expressed; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for him to commit the offender to the Common Gaol of the District wherein the offence was committed, for any term not exceeding three calendar months, unless the fine and costs shall be sooner paid.

VIII. And be it enacted, That the prosecution for every offence punishable under this Act shall be commenced within one calendar month after the commission of the offence, and not otherwise; and the evidence of any inhabitant of the County, District, Riding or Division, in which the offence shall have been committed, shall be admitted and receivable, notwithstanding the penalty incurred by the offence may be payable for the benefit of the Township or Division where the offence shall have been committed: Provided, that in no case shall the party who makes the charge in writing before the Justice, be admitted as a witness in the case.

IX. And be it enacted, That any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or decision, and if holden in less

than twelve days, then to the next ensuing Court of General Quarter Sessions for the District wherein the cause of complaint shall have arisen: Provided that such person shall give to the other party a notice, in writing, of such appeal, and of the cause and matter thereof, within six days after such conviction or decision, and ten days at least before the Sessions, and shall also either remain in custody until the Sessions, or enter into recognizance with two sufficient sureties before any Justice of the Peace, conditioned personally to appear at the Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance entered into, the Justice shall liberate such person, if in custody; and the Court, at such Sessions, shall hear and determine the matter of the appeal, and shall make such Order therein, with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal and the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue Process for enforcing such judgment.

X. And be it enacted, That every Justice of the Peace before whom any person shall be convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions which shall be holden for the District wherein the offence shall have been committed, there to be kept by the proper officer among the records of the Court.

XI. And for the protection of persons acting in the execution of this Act, Be it enacted, That all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within three calendar months after the fact committed, and not otherwise; and notice in writing, of such action, and of the cause thereof, shall be given to the Defendant one calendar month at least before the action; and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no Plaintiff shall recover in such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the Defendant; and if a verdict shall pass for the Defendant, or the Plaintiff shall become non-suit, or discontinue any such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the Plaintiff, the Defendant shall recover his full costs, as between Attorney and Client, and have the like remedy for the same as any Defendant hath by law in other cases.

XII. And be it enacted, That all sums of money to be awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows, that is to say: one moiety thereof shall be paid to the party charging the offence in writing before the Justice, and the other moiety shall be paid to the Treasurer of the District wherein the offence was committed, and shall be accounted for by such Treasurer, in the same manner as he is by law obliged to account for other monies deposited with or paid over to him.

XIII. And be it enacted, That this Act shall be deemed a Public Act, and shall be taken notice of by all Courts of Law, Judges, Justices, and other persons, without specially pleading the same.

XIV. And be it enacted, That this Act shall not extend or be construed to extend to that part of this Province which formerly constituted the Province of Lower Canada, nor shall it extend to people called Indians.