

then in force, R. S. O. 1887, ch. 203: *Attorney-General v. Hamilton St. Rv. Co.*, 24 A. R. 170.

The Legislature forthwith proceeded to remedy this by passing a new Act, "to prevent the profanation of the Lord's Day." (R. S. O. 1897, ch. 246). This was of larger scope than the one of 1887, passed upon by the Court, and by secs. 7 and 8 expressly provides for the prohibition of Sunday excursions by railway, and forbids generally (with exceptions not now relevant), the operating of electric street railway cars on the Lord's Day. In 1901, a broader legal question was raised as to the power of the provincial Legislature to enact ch. 246. The whole Act was brought before the Court of Appeal for Ontario, upon questions submitted by the Lieutenant-Governor in Council. The first question was as to the validity of the whole Act, and in particular as to secs. 1, 7, and 8, and it was answered by a majority of the Court, and the answer affirmed the validity of the statute. Two subsidiary questions were also submitted: (1) as to the power of the province to prohibit Sunday work on railways subject to the exclusive legislative authority of the Dominion; and (2) as to the like powers in the case of railways declared to be for the general advantage of Canada. These latter questions were answered negating such power in the province: *Re Lord's Day Act of Ontario*, 1 O. W. R. 312. An appeal was then taken to the Privy Council, and that tribunal reversed the opinion of the majority of the Judges below on the first question, and it was decided that the Act as a whole was *ultra vires*, for substantially the same reasons as those given by Armour, C.J., the dissenting Judge. Their Lordships held that the Act "treated as a whole," was one dealing with a subject falling under the classification of "criminal law," which by the distribution of powers in the British North America Act, 1867, sec. 91, sub-sec. 27, was reserved for the exclusive legislative authority of the Parliament of Canada: *Attorney-General v. Hamilton St. Rv. Co.*, [1903] A. C., p. 524. Their Lordships held that this answer to the first question rendered it unnecessary to answer the second (as above set forth), thus in effect, as I understand, affirming the view expressed by all the Ontario Judges in appeal, that the clauses as to the operation of the Dominion railways was not within the competence of the provincial Legislature.

Other remaining questions (not now, it would seem, relevant to this litigation), the Lords of the Privy Council declined to entertain as being of hypothetical character, which