

JULY 14TH, 1903.

JUDICIAL COMMITTEE.
RE LORD'S DAY ACT OF ONTARIO.

Constitutional Law—Powers of Provincial Legislature—Act to Prevent Profanation of Lord's Day—Criminal Law—Reservation to Dominion Parliament.

Appeal by the Attorney-General for Ontario and cross-appeal by the Attorney-General for Canada from the judgment of the Court of Appeal for Ontario (1 O. W. R. 312) upon questions submitted to that Court by the Lieutenant-Governor in Council, pursuant to R. S. O. 1897 ch. 84.

The questions submitted are set out in the former report.

J. A. Paterson, K.C., for the Attorney-General for Ontario.

E. L. Newcombe, K.C., and H. W. Loehnis, for the Attorney-General for Canada.

H. S. Osler, K.C., and Lauriston Battem, for the Grand Trunk R. W. Co.

A. B. Aylesworth, K.C., for the Metropolitan R. W. Co.

A. E. O'Meara, for the Lord's Day Alliance of Ontario.

The judgment of the board (Lord Halsbury, L.C., Lords Macnaghten, Shand, Davey, Robertson, and Lindley), was delivered by

LORD HALSBURY, L.C., who said that their Lordships had considered this case, and, speaking without reference to the last question, with which their Lordships would deal separately, which had been suggested for their consideration, they were of opinion that the Act of Parliament, treating it as a whole, was beyond the competency of the Ontario Legislature to enact, and they were prepared to answer that question, therefore, by saying that the Act itself as a whole was invalid. The question turned upon a very simple consideration. The reservation of the criminal law for the Dominion was given in language which their Lordships considered to be very plain, ordinary, and intelligible words, and to be construed according to their natural signification. Those words seemed to their Lordships to require—and, indeed, admitted of—no plainer exposition than the language itself. What was reserved was "the criminal law except the constitution of courts of criminal jurisdiction, but including procedure in criminal matters." It was, therefore, as had been once said before in that Court, the criminal law in the widest sense; and it was impossible, notwithstanding the very protracted argument to which their Lordships had listened, to doubt that an infraction of the Act which was in operation at the time of Confederation was an offence against the crimi-