

dissented from his colleagues, being of the opinion that the additions to the original Act of Upper Canada as it stood at the time confederation took effect, were ultra vires of the Ontario Legislature inasmuch as these amendments in effect dealt with criminal matters, and therefore went beyond the powers of the Provincial Legislature. This view has, it appears, been adopted by the Judicial Committee of the Privy Council, and the decision of the Ontario Court of Appeal affirming the validity of the Act in its present shape has consequently been reversed. This reversal, however we take it, can only render invalid those additions which the Ontario Legislature has from time to time made to the Act as originally passed by the former legislature of Canada prior to confederation. Assuming this to be correct the word "farmer" inserted by 59 Vict., c. 62 (O.), must be eliminated from the present R.S.O. (1897), c. 246, s. 1. Sec. 7, prohibiting Sunday excursions by steamboats or railways added by 48 Vict., c. 44, ss. 1-7, must be also stricken out; and also s. 8 against operating street railways on Sunday, which was added by 60 Vict., c. 14, s. 95.

By s. 129 of the B. N. A. Act, all existing laws in force in Canada at the time the Act came into force were continued in force in Ontario. If the additions to the Act then in force, which the Ontario Legislature had subsequently assumed to make, exceeded its powers then the statute in its original form stands, and only the assumed additions fall to the ground. The fact that the original Act was assumed to be repealed in 1877 at the first consolidation of the Ontario Statutes after confederation cannot make any difference because, according to the view of the Judicial Committee, the subject matter of the original Act being beyond the jurisdiction of the local legislature to enact, it was equally incapable of repealing it. The repeal of statutes on the consolidation of the statutes in 1877 was moreover declared to take effect only so far as the Acts and parts of Acts were within the legislative authority of the Legislature of Ontario. See R.S.O. (1887), page liii, s. 6, and *ib.*, p. 2,271, sched. A. The operative Act would therefore now appear to be C.S.U.C., c. 104.