

1914

ONE DAY OF REST IN SEVEN

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ONE DAY OF REST IN SEVEN California Proposition 42 (1914).
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ONE DAY OF REST IN SEVEN.

Initiative act prohibiting, except in cases of urgent emergency, the working for wages, or requiring or employing any person to work, more than six days or forty-eight hours a week, the keeping or operating certain places of business or selling property on Sunday; declares Sunday provisions of act inapplicable to works of necessity, or to member of religious society which observes another day as day of worship and who on such day keeps his place of business closed and does not work for gain; declares violation of act misdemeanor and prescribes penalties.

The electors of the State of California present to the secretary of state this petition, and request that the proposed law, hereinafter set forth, be submitted to the people of the State of California for their approval or rejection at the next ensuing general election, as provided by the Constitution of the State of California.

An act to provide for one day in seven as a day of rest.

The people of the State of California do enact as follows:

Section 1. Definition and construction. In this act, unless the context otherwise requires:

(a) The word "day" means twenty-four consecutive hours, the word "Sunday" means the period of time which begins at 12 o'clock p. m. on Saturday night and ends at 12 o'clock p. m. on the following night, and other words and terms used have the same meaning as defined in the codes of California.

(b) A contract to perform a lawful act, though made on Sunday, is valid, but a contract rendered void by unlawful action on Sunday can not be made valid by subsequent action.

Section 2. It is unlawful for any person, firm, association or corporation in this state, or for any officer or employee of the State of California, or of any political subdivision thereof, to violate any of the following provisions:

(1) To hire, employ or require any employee, apprentice, servant or other person or persons to work at or engage in any trade, business, profession or occupation for more than six days in any calendar week of seven days.

(2) To work at or to engage in any said trade, business, profession or occupation for wages for more than six days in any calendar week of seven days.

(3) To keep open on Sunday for the purpose of transacting any business or labor, any store, office, shop, building, or place of business where goods, wares, merchandise or property is sold or offered for sale; or to sell or offer for sale any goods, wares, merchandise or property on said day.

(4) To keep open or operate on Sunday for profit any mill, mine, factory, bake-house, barber shop, work-shop, studio, or any such or similar place of business or occupation which is managed by or employs either skilled or unskilled labor, or both; provided, however, that the above provisions of this section do not apply to unavoidable work in caring for live animals, or to cases of urgent emergency, immediate danger to life, property, public safety, or public health only shall be considered cases of urgent emergency within the meaning of this act. And, provided, that the above sub-sections numbered (1) and (2) do not apply to any person whose total hours of labor during seven consecutive days do not exceed forty-eight hours; and, provided further, that the above sub-sections numbered (3) and (4) do not apply to works of daily necessity. It is hereby declared that said works of necessity within the meaning of this act include the following, but not so as to restrict the ordinary meaning of the expression "works of necessity":

(a) Work essential to the relief of sickness and suffering, including the sale of drugs, medi-

cines, or surgical appliances by retail for strictly medicinal purposes;

(b) Furnishing lodging or meals at hotels, boarding houses, restaurants, lunch stands, cafes, and work incidental thereto;

(c) Ice cream parlors;

(d) Parks, bath houses, libraries, museums, or art galleries;

(e) Sports, theaters and amusements;

(f) Setting sponges in bakeries;

(g) The sale and delivery of daily newspapers and magazines, or the necessary work in the preparation of the Sunday or Monday morning edition of a daily newspaper;

(h) The sale and delivery of milk, or cream, and unavoidable work in making cheese or butter, and in any manufacturing plant or industry, or industrial process of such a continuous nature that it cannot be stopped without serious injury to said plant, industry or its product or property used in such process;

(i) Unavoidable work essential to the protection of mines, property or perishable products in imminent danger of destruction or serious injury, and to utilizing water power necessary to prevent serious injury or loss in hydraulic mining or other industries where the water supply is not continuous throughout the year;

(j) Any work which is necessary to the continuous supply of electric current, light, heat, air, water, gas or motive power; to operating vessels, vehicles, livery stables, garages, railroads or any other transportation lines in this state; to telegraph and telephone service; and to any such public utility which the public welfare requires should be kept in daily operation;

(k) Any work which the railroad commission of this state, having due regard to the object of this act, to provide one day of rest in seven, deems necessary to permit in connection with the traffic or conduct of any railway or of any other public utility within the jurisdiction of said railroad commission, including the permitting of two days of rest to fall at any time within a period of fourteen consecutive days; provided, however, that said employee, apprentice, servant, or other person engaged in works of necessity as above provided for in sub-sections lettered (a) to (k) inclusive, shall not be hired, employed or required to work more than six days in seven, except as provided for in this act, but the day of rest may fall upon parts of two calendar days. And provided, further, that the above sub-sections numbered (3) and (4) do not apply to any person who is a member of a religious society which observes some other day than Sunday as its day of worship, and who actually keeps his place of business or occupation closed and does not work for gain or wages upon said day of worship.

Section 3. Any person, firm, association or corporation, or any officer or employee of the State of California, or of any political subdivision thereof, that violates any provision of this act, is guilty of a misdemeanor, and, upon conviction thereof, said offender shall be fined not less than ten dollars nor more than two hundred dollars, or be imprisoned in the county jail not to exceed thirty days, and, upon each subsequent conviction, both said fine and imprisonment shall be imposed; except, however,

in case of corporations, the imprisonment, when imposed, shall be imposed upon all officers or agents thereof in this state committing such offense or causing the same to be committed.

Section 4. The commissioner of the bureau of labor statistics and his deputies, are hereby authorized, empowered and directed to enforce the provisions of this act. And it is also hereby declared to be the special duty of each magistrate, district attorney and peace officer in this state to inform against and diligently prosecute any and all persons guilty of the violation of any provision of this act, either upon credible information as to any such violation, or upon reasonable cause to believe that there has been any such violation.

Section 5. Nothing in this act shall be construed to repeal or limit an act entitled "An act limiting the hours of labor of females," etc., approved March 22, 1911; or to limit the powers of municipal or county governments, not in conflict herewith.

ARGUMENT IN FAVOR OF ONE DAY OF REST IN SEVEN.

It is against the law of nature that man should work all the time, yet many men are compelled to do so against their will. Continuous labor makes of man a beast of burden, a slave to toil. Six-day laborers do more and better work and live longer, happier lives than seven-day toilers. One day of rest per week increases the efficiency of labor and the wage therefor. A mine owner has said, "We can afford to pay 25 per cent higher wages for a six-day than a seven-day laborer." Unfortunately all employers have not discovered that fact. One day's rest in seven works to the advantage of employers. Fatigue is one of the chief causes of accidents on transportation lines and in the industries. "Safety first" is now the slogan. Employers' liabilities will be diminished and the traveling public protected.

This bill provides for one day's rest in seven for all employees engaged in the continuous industries and for both employer and employee in all lines of business which can stop on one specified day. It applies to state, city and private employees. It is neither a religious measure nor a "blue law." No one would contend for a moment that religious or "blue laws" are enforced in any state on the Pacific slope or elsewhere in the United States to-day, and yet every state in the union, except California, and every civilized nation on the globe, sets aside Sunday as a common rest day, and none has been so bold as to claim that in so doing religious or blue laws are being forced upon the people.

This proposed law is probably the most liberal of any to be found on the statute books. It will not interfere with sports and amusements. They are left to local control. It will not interfere with any church or religion. It allows the Jew or Seventh Day Adventist to rest on Saturday and work the other six days of the week. It will not interfere with such industries as transportation lines, telegraph or telephone systems, electric light, gas and water plants; making of cheese and butter, caring for perishable fruits and other products; irrigation and work in industrial plants which require daily operation; daily newspapers and ice cream parlors; hotels, restaurants and boarding houses; sale of drugs and caring for the sick; sale and delivery of milk and cream. But while such businesses and industries may be kept in constant operation, each employee is to have one day off in seven, except in case of emergencies. The law will not limit the number of hours on the work days.

It is not an infringement upon but a grant of personal liberty. Men do not want the liberty to be compelled to work all the time; they do want the liberty to rest one day in seven. The right of rest for each requires a law of rest for all.

Eighty-four

The bill gives one day's rest to employers in mercantile and other industries which can stop one day in the week. Why should they not have it? Proprietors need rest more than their clerks in this strenuous age of close competition. The saloon keeper as well as the grocer is entitled to this holiday. It can be secured only by means of a law which closes all places of the same line of business on the same day.

Every voter who believes in a weekly home day for wage earners and brain-tired business men will cast a ballot for the initiative act for one day of rest in seven.

WILLIAM KEHOE,
State Senator First District.

ARGUMENT AGAINST ONE DAY OF REST IN SEVEN.

This proposed law discriminates in favor of those sects that observe Sunday as a day of rest and religious worship, by selecting and establishing it, by law, as the day of rest, and enforcing it upon the people under severe penalties of fines and imprisonment; while those who would observe another day are merely permitted to do so, under prescribed conditions, limitations, and restrictions.

This is a violation of the Constitution of the State of California, which declares that "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaranteed in this state." (Art. I, Sec. 4, Constitution of California.) "The enforced observance of a day, held sacred by one of the sects, is a discrimination in favor of that sect and a violation of the freedom of the others." (Vol. 9, page 592, California Reports.)

This proposed law is an unwarranted interference with individual rights and personal liberty. "A man's constitutional liberty means more than his personal freedom. It means, with many other rights, his right freely to labor, and to owe the fruit of his toil. * * * It is a curious law for the protection of labor which punishes the laborer for working. Such protection to labor, carried a little further, would send him from the jail to the poor house." (Vol. 112, page 468, California Reports.)

The right of one person or class to choose their time of labor and rest establishes the right of every person, and of any class, to a like choice. This proposed law denies equal rights. It grants the right of choice to those who choose to labor, or employ labor, eight hours in one day, forty-eight hours in one week; but denies this right of choice to those who wish to labor or employ labor forty-eight hours and a few minutes in one week. It not only denies the right of choice, but imposes grievous penalties of fines and imprisonment upon those who shall attempt to exercise this natural liberty. Such a law would be a vicious menace to society. It would declare good citizens to be criminals because they sold something on the first day of the week, or because they had labored, or employed labor, for hire, a few minutes over forty-eight hours in one week. Their reasons not being accepted by the zealous prosecutors of the law, they would be in the power of the blackmailer or the jailer most of the time.

This proposed law places all citizens on a level with the wards and convicts of the state, deprived of the liberty to choose their own time for work and rest.

The state has no more right to say when free citizens shall work, or rest, than it has to fix, by law, a time for them to eat and sleep. For the state to deny its free citizens the personal right to determine the use of their own time is to treat them as slaves.

W. MATHEW HEALY.