

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1789. National Archives of the United Kingdom CO 219/1.

30 George III – Chapter 2

An Ordinance to render more effectual an Ordinance passed the 21st day of November in the Year of Our Lord one thousand seven hundred and eighty Seven, Entitled an Ordinance for the prevention of Moose & Carraboo [Caribou]

Whereas it is found that the Ordinance passed the 21st day of November 1787, entitled an Ordinance for the preservation of Moose and Carraboo [Caribou] is ineffectual to Answer the good purposes thereby intended and to prevent the base and destructive practices pursued by a Set of Lawless Men on this Island who assemble in Gangs every winter and Spring and Set themselves on the extream and uninhabited parts of this Government for the purpose of destroying the Moose and Carraboo merely for the profits accruing from the sale of their Skins.

And whereas it is found by experience that the preservation of the Moose and Carraboo in this infant Government is absolutely necessary as well for the Subsistance of the present Inhabitants as an encouragement to other Settlers to resort to this Island where it has been impossible as Yet to procure a Sufficiency of live Stock to Supply their necessary wants, and the good Inhabitants of this Island having signified their most earnest wishes to His Excellency the Lieutenant Governor that every possible mode may be attempted to put a Stop to a practice so injurious to the prosperity of this Government and threatening an extirpation of the Price of Moose and Carraboo [Caribou]. It is therefore become absolutely necessary that the most rigorous Steps should be taken in order to prevent if possible so injurious a practice: The endeavouring to effect which cannot by any means or construction to be deemed an introduction of a game Law to preserve the Luxeries of life but only to secure a real benefit to the Inhabitants in General absolutely necessary to their Existence.

Be it therefore Ordained and Ordered by His Excellency the Lieutenant Governor by and with the consent and advice of His Majesty's Council and it is hereby Ordained and ordered by the Authority of the same. That from and after the publication of his ordinance all and every Moose and Carraboo Skin or Skins found in the possession of any person or persons in the Island or its Dependencies or on Board any Shallop or boat in any of the Harbours or Rivers of this Island or its Dependencies shall be liable to Seizure by warrant under the hand and Seal of any one or more of His Majesty's Justices of the Peace for the said Island or under the hand and Seal of any one Justice of the Peace for the County or District in which the said Skin or Skins may be Discovered and the said Justice is hereby Authorized required and directed on information, being given him on Oath by one or more Credible person or persons of any Moose or Carraboo skin or skins in his or there possession immediately to Issue his Warrant directed to the provost Marshall of said Island or his Deputy's or to any Constable or Constables of the Township County or District within his Jurisdiction – requiring and Commanding the said provost Marshall or his Deputy or Deputies or any one or more of the said Constables forthwith to proceed to such place or places (mentioning the same in the said Warrant where information shall have been given the said Justice, that such skin or skins is or are lodged or concealed and there make seizure of the same which said skin or

skins shall by the said provost Marshall his Deputy or Deputies or by the Constable or Constables who shall have seized the same be with all possible dispatch Conveyed to the dwelling House or habitation of the Said Justice who shall have issued the said Warrant who is hereby required and directed to take charge of the same and give the said person or persons so bringing the same a Receipt Specifying the Number and Quality of such skin or skins, so Received by him and in case the person or persons claiming property in the said skin or skins shall not within Thirty days after such seizure make it appear to the Satisfaction of the said Justice that the Moose or Carraboo from which the said skin or skins was or were taken had been killed by an Inhabitant of this Government and that the Moose and Carraboo meat thereof had been either conveyed to the public Market on this Island or was killed for the express purpose of supplying some of the Inhabitants of this Government with fresh provisions and that the person or persons who killed the same did not belong to or was concerned with any set or Gang of Men who had assembled together for the purpose of killing Moose or Carraboo in order to make a Traffick of their skins the said Justice shall in such case adjudge the said Skin or Skins to be forfeited and shall thereupon with all convenient speed cause the said skin or skins to be deposited in the care and custody of the provost Marshall of this Island, taking his receipt for the same and the said provost Marshall is hereby Authorized required and directed to receive the same and immediately on Receipt thereof to cause Notices to be fixed up at three or more of the most public places in the Town of Sydney (not less than Ten days from the time of receiving the said skin or skins) for the sale thereof at public auction on which day the said provost Marshall Shall proceed to the sale of the said Skin or Skins to the highest bidder and after deducting the necessary expenses of seizure Transportation and sale shall apply and pay the net proceeds of such skin or skins in manner following to wit; The one moiety thereof to the person or persons who shall have first given information thereof to the said Justice, and the other Moiety thereof to the order of the Governor, Lieutenant Governor or Commander in Chief for the time being for the public use of this Government Provided always that in case any person or persons shall come to the possession of any Moose or Carraboo Skin or Skins and Shall immediately thereupon make it appear to the satisfaction of any one of His Majesty's Justices of the peace for this Island and its Dependencies or any one of the Justices for the County or District where such person or persons so having possession of such skin or Skins resides, that the meat from which the said skin or skins was taken had been killed by an Inhabitant of this Island and the meat thereof had been either disposed thereof in public market in this Island or its Dependencies or used in his or their family or families so killing the same or had been supplied to some of the Inhabitants of the Island or its Dependencies for their consumption and that the person or persons who killed the same did not belong to, or was concerned with any set or Gang of Men collected together for the purpose of killing Moose of Carraboo in Order to make a Traffick of their Skins and shall obtain from said Justice a Certificate who in such case is hereby required and directed to give the same specifying the number of the said skins which certificate shall be a full and sufficient protection to the said person or persons for having the said skin or skins in his or their possession on producing the same to any Officer or Officers appearing to seize the said skin or skins and on making Oath, if required, before any one of His Majesty's Justices of the peace that the skin or skins then in his or their possession are the same for which the said certificate was granted.

And be it further ordained and ordered by the Authority aforesaid that in case any person or persons shall be convicted before any one of His Majesty's Justices of the Peace for this Island or

before any of the Justices for the County or District in which the offence shall be Committed by the oath of one or more Credible Witness or Witnesses of erecting or of having been concerned in the erecting or building of any Hutt or Dwelling place on any of the Crown lands in this Government for the purpose of a Shelter during the carrying on his or their destructive Schemes of killing Moose or Carraboo every person and persons so convicted shall be to and forfeit the sum of Five pounds current Money of Nova Scotia for every such offence to be levied by distress and sale of the Goods of every such offender by a Warrant of the Justice by whome the said Conviction shall be made, the one half of which forfeiture to be for the public Use of the Government and the Other half to the use of him or them which shall prosecute and cause such Offender or Offenders to be Convicted. And if not sufficient Distress can be found the said Justice is hereby Authorized and Directed by Warrant under his hand and seal to Commit the offender or offenders to His Majesty's Goal [Jail] in the Town of Sydney there to remain in Close Confinement for the space of three Months unless the said fine and costs prosecution shall be sooner paid.

And Whereas it has been a practice for persons to come from other parts of this Island for the sole purpose of killing the Moose and Carraboo in order to make a traffick of their Skins for remedy whereof Be it ordained and ordered by the Authority of the aforesaid, and it is hereby ordained and ordered by the Authority of the said, that every person or persons not being Inhabitants of this Government who shall kill or Destroy any Moose or Carraboo on this Island or its Dependencies or be aiding or assisting in the same every such person or persons shall be liable to and forfeit the sum of Five pounds current Money as aforesaid for every such offence to be levied by Distress and Sale of the Goods of every such offenders by Warrant under the hand and Seal of the Justice before whome the Conviction shall be made, the one half of the said forfeiture to be for the public use of the Government and the other half to the use of him or them who shall prosecute and cause such offender or offenders to be Convicted and for want of Goods whereof to levy the said Fine then the said Justice shall by Warrant under his hand and seal commit the said offender or offenders to His Majesty's Goal [Jail] in the Town of Sydney there to remain in Close Confinement for the space of three Months unless the said Fine and charges of prosecution shall be sooner paid.

And Whereas it is the Duty of every well wisher to the prosperity of this Government not only to be aiding and assisting in the detecting offenders against this Ordinance but also in preventing as much as in their power all such persons who may be inclined to offend from being supplied with the necessary Articles to carry on their pernicious purposes – And whereas there is good reason to believe that Numbers of persons who enter into these practices would not be able to carry the same into execution if it was not for the Supplies furnished them before hand by persons in this Government on Contracts to have their pay for the said Supplies in Moose or Carraboo Skins for remedy whereof.

Be it further ordained and Ordered by the Authority aforesaid and it is hereby ordained and ordered by the Authority of the same that if any person or persons shall be Convicted before any one of His Majesty's Justices of the Peace for the Island of Cape Breton and its Dependencies or before any one Justice of the Peace of the County or District where the Offence shall be Committed by the oath of one Credible Witness of having supplied or furnished any person or

persons concerned with or belonging to any Gang or Set of Men collected or intended to be collected for the purpose of killing Moose or Carraboo in order to make a Traffick of their Skins (knowing him or them to be concerned in such a Scheme) with arms Ammunition Cloathing or provisions shall for every such offence forfeit and pay the sum of Fifty pounds like Money as aforesaid to be recovered by Bill plaint or information in any of His Majesty's Courts of Record in this Island, the one half of which forfeiture to be for the public use of this Government and the other half thereof to the use of him or them who shall prosecute and cause such offender or offenders to be convicted, Provided always that if any person shall deem himself wrongfully charged by any judgements given by any justice of the peace in consequence of any matters or things contained in this ordinance and shall within six days from the time of such Judgement given, enter into Recognizance before the said Justice who has given the said Judgement with two good sureties himself in the sum of Fifty pounds and his Sureties in Twenty five pounds each to prosecute his Complaint before His Majestys Supreme Court of judicature at their then next sittings and in case the said judgement shall be confirmed by the said Supreme Court that he will pay and satisfy all such costs and charges as shall attend thereon Such person may Appeal from the said Judgement of the said Justice to the next sittings of the Supreme Court where the whole cause may be heard and determined by such Court in a Summary manner.

And be it further ordained an ordered by the Authority aforesaid that in case any person or persons shall be prosecuted for any matter or cause or thing done by him or them in Virtue of any powers or Authorities given or Granted him or them by this Ordinance, It shall and may be Lawfull for such person or persons so prosecuted to plead the General Issue and give this Ordinance in evidence.

And Whereas the native savage Inhabitants of this Island have frequently represented their fears that they will be under the absolute necessity of quitting this Island unless some measures be pursued to preserve the Moose and Carraboo from the destruction that has of late Years taken place And Whereas from the Uniform behaviour of these savages there is no reason for Apprehending that any bad Consequences can arise by exempting them from the penalties of this ordinance who from their rude and uncivilised State Situation and Circumstances cannot be expected to understand the Laws and guard against the Penalties.

Be it therefore ordained and ordered by the Authority aforesaid that nothing in this ordinance contained shall extend or be construed to extend to or in any wise Effect the native savages Inhabitants of this Island –

Approved, ordained and ordered Accordingly in Council this Sixteenth Day of
December in the Thirtieth Year of
His Majestys Reign and in the Year
1789

signed Wm. Macormick
Lt Govern of Cape Breton

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Passed in Council this
16th Day of Decemr 1789
(signed)
D. Mathews P.

(A true Copy)
Crawley Secy. & Clerk of Council