

The Provincial Statutes of Canada, passed in the year 1843. Kingston: Stewart Derbishire & George Desbarats, 1843.

7 Victoria – Chapter 12

An Act to prohibit the hunting and killing of Deer and other Game within this Province, at certain seasons of the year. 9th December, 1843.

Whereas it is expedient to amend the Laws now in force for the preservation of Deer and other Game in this Province, and to repeal an Act of the Legislature of the late Province of Upper Canada, passed in the second year of Her Majesty's Reign, and intituled, *An Act to amend an Act passed in the fourth year of the reign of His late Majesty King George the Fourth, intituled, An Act for the preservation, of Deer within this Province, and to extend the provisions of the same and to prohibit shooting on the Lord's Day*; Be it therefore enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, that the said Act be, and the same is hereby repealed.

II. And be it enacted, that no person or persons shall within this Province after the first day of February in every year hereafter, take or kill in any manner whatever, any red or grey Deer, or any Moose, Elk, or other Deer, or any Fawn, until the first day of August.

III. And be it enacted, that if any person shall take, hunt, shoot, kill, or destroy, any red or grey Deer, or any Moose, Elk, or other Deer or any Fawn, between the first day of February and the first day of August, or any Game called wild Turkey, Prairie Hen, or Grouse, Grouse-Pheasant, Partridge, Quail, or any or either of them, between the first day of February and the first day of September in every year, or shall sell, offer for sale, buy, receive or have in his or her possession any Venison or Game aforesaid between those periods (such Venison or Game having been killed after the first day of February in any year, the proof to the contrary whereof shall be upon the party charged,) or if any person shall take, shoot, kill or destroy or shall sell, offer for sale, buy, receive or have in his or her possession any Woodcock between the first day of February and the fifteenth day of July in any year, or if any person shall at any time hereafter erect, make or set either wholly or in part any pen, trap, gin, net, or snare, for the purpose or with the intention of entrapping, taking, or snaring any wild Turkey, within this Province, any such person being convicted of any or either of the said offences before a Justice of the Peace, upon the oath or affirmation of one or more credible witness or witnesses, (which oath or affirmation the Justice is hereby authorized to administer) or upon view had of the offence by the said Justice himself, shall pay a fine or penalty not exceeding ten pounds nor less than ten shillings, current money of this Province, together with the costs and charges attending the proceedings and conviction.

IV. And be it enacted, that when any person shall be charged upon oath or otherwise in writing before any Justice of the Peace with any offence against this Act, the said Justice shall summon the person so charged to appear before him at a time and place to be named in such Summons; and if such person shall fail or neglect to appear accordingly, then (upon proof of due service of the Summons upon such person by delivering or leaving a copy thereof at his house, or usual place of abode, or by reading the same over to him personally,) the said Justice may either proceed to hear and determine the case *ex parte*, or issue his warrant for apprehending such person and bringing him before himself or some other Justice of the Peace within the same district; and the Justice before whom the person charged shall appear or be brought, shall proceed to hear and determine the case.

V. And be it enacted, that the Justice before whom any person shall be convicted of any offence against this Act, may cause the conviction to be drawn up in the following form, or in any other form of words to the same effect, as the case shall require, that is to say: "Be it remembered that on the _____ day _____ in the year of our Lord at in the County of _____ (or District, Riding, or Division, as the case may be) A. B. of is convicted before me, C. D. one of Her Majesty's Justices of the Peace for the said County (or District, or Riding, or Division, as the case may be,) for that he the said A. B. did (specify the offence and the time and place when and where the same was committed, as the case may be;) and I, the said C. D. adjudged the said A. B. for his offence, to pay (immediately, or on or before the _____ day of _____) the sum of £ _____ and also the sum of _____ for costs; and in default of payment of the said sums respectively, to be imprisoned in the Common Gaol of the said County, (or District, or Riding, or Division, as the case may be,) for the space of _____ months, unless the said sums shall sooner be paid; and I direct that the said sum of _____ pounds (the penalty) shall be paid as follows; (that is to say, one moiety thereof to the party charging the offence, and the other moiety to the Treasurer of the District, to be by him, the said Treasurer, applied according to the provisions of this Act.)

Given under my hand and seal, the day and year first above mentioned.

[L. S.] C. D"

VI. And be it enacted, that a conviction under this Act shall not be quashed for want of form; nor shall any warrant of commitment be held void by reason of any defect therein; Provided that it be alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

VII. And be it enacted, that in default of payment of any fine imposed under the authority of this Act, together with the costs attending the same, within the period specified for the payment thereof at the time of conviction, by the Justice of the Peace before whom such conviction shall have taken place, it shall and may be lawful for such Justice of the Peace, (if he deems it expedient to do so) to issue his Warrant directed to any Constable to levy the amount of such fine and costs within a certain time, to be in the said Warrant expressed; and in case no distress sufficient to satisfy the amount shall be found, it shall and may be lawful for him to commit the offender to the

Common Gaol of the District wherein the offence was committed, for any term not exceeding three calendar months, unless the fine and costs shall be sooner paid.

VIII. And be it enacted, that the prosecution for every offence punishable under this Act shall be commenced within three calendar months after the commission of the offence, and not otherwise; and the evidence of any inhabitant of the County, District, Riding or Division, in which the offence shall have been committed, shall be admitted and receivable, notwithstanding the penalty incurred by the offence may be payable for the benefit of the Township or Division where the offence shall have been committed: Provided that, in no case, shall the party, who makes the charge in writing before the Justice, be admitted as a witness in the case.

IX. And be it enacted, that any person who shall think himself aggrieved by any conviction or decision under this Act, may appeal to the next Court of General Quarter Sessions, which shall be holden not less than twelve days after the day of such conviction or decision, and if holden in less than twelve days, then to the next ensuing Court of General Quarter Sessions for the District wherein the cause of complaint shall have arisen: Provided that such person shall give to the other party a notice, in writing, of such appeal, and of the cause and matter thereof, within six days after such conviction or decision, and ten days, at least, before the Sessions, and shall also either remain in custody until the Sessions, or enter into recognizance with two sufficient sureties before any Justice of the Peace, conditioned, personally to appear at the Sessions and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; and upon such notice being given, and such recognizance entered into, the Justice shall liberate such person, if in custody; and the Court, at such Sessions, shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet; and in case of the dismissal of the appeal and the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as shall be awarded, and shall, if necessary, issue process for enforcing such judgment.

X. And be it enacted, that every Justice of the Peace before whom any person shall be convicted of any offence against this Act, shall transmit the conviction to the next Court of General Quarter Sessions which shall be holden for the District wherein the offence shall have been committed, there to be kept by the proper officer, among the records of the Court.

XI. And for the protection of persons acting in the execution of this Act, Be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within three calendar months after the fact committed, and not otherwise; and notice, in writing, of such action, and of the cause thereof, shall be given to the defendant one calendar month, at least, before the action; and in any such action the defendant may plead the general issue, and give this Act, and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have, been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict shall pass for the

defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

XII. And be it enacted, that all sums of money to be awarded or imposed as fines or penalties, by virtue of this Act, shall be paid as follows (that is to say): one moiety thereof shall be paid to the party charging the offence in writing, before the Justice, and the other moiety shall be paid to the Treasurer of the District wherein the offence was committed, and shall be accounted for by such Treasurer, in the same manner as he is by law obliged to account for other monies deposited with, or paid over to him.

XIII. Provided always, and be it enacted, that nothing in this Act shall extend, or be construed to extend, to any Indians now or hereafter to be resident within the limits of this Province; but nothing in this Act shall extend, or be deemed, taken, or construed to extend, to justify or authorize any person to have, receive, purchase or take from any Indian any Venison or other Game killed out of season, or between the period within which the taking or killing of game is prohibited by this Act.

XIV. And be it enacted, that this Act shall be deemed a public Act, and shall be taken notice of by all Courts of Law, Judges, Justices, and other persons, without specially pleading the same.