

1937

c 333 Beach Protection Act

Ontario

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CHAPTER 333.

The Beach Protection Act.

Prohibition
against
taking sand,
gravel or
stone
without
a license.

1.—(1) No person shall take or carry away in any vessel or other conveyance or otherwise transport by land or water or remove by drag-line or other mechanical device any sand, gravel or stone from the bed, bank, beach, shore or waters of any lake, river or stream, or any land covered by or bordering upon the waters of any lake, river or stream or from any bar, or flat in any lake or adjoining any channel or entrance to any lake whether or not such bed, bank, beach, shore, land, bar or flat is owned by such person, unless such person is the holder of a license issued under the provisions of this Act.

License,—
issue of,
etc.

(2) The Lieutenant-Governor in Council, upon the recommendation of the Minister of Mines, may issue licenses in accordance with the provisions of the regulations to this Act and may revoke any license which has been issued.

Exception.

(3) Subsection 1 shall not apply to the removal of sand, gravel or stone by a municipality for municipal uses or by a *bona fide* resident of Ontario provided that such sand, gravel or stone is for his personal use and not for resale or for use for commercial or industrial purposes. 1937, c. 10, s. 2.

Prohibition
against
trespassing
in search of
sand, gravel
or stone.

2. No person without the license required by this Act shall go upon any bed, beach, shore, water, bar or flat mentioned in section 1 for the purpose of removing or assisting to remove any gravel, sand or stone therefrom. R.S.O. 1927, c. 298, s. 2.

Having
sand, etc.,
unlawfully
in posses-
sion.

3. No person shall have on board his vessel or on a vessel in his possession or control any sand, gravel or stone, taken without the license required by this Act from any such bed, beach, shore, water, bar or flat. R.S.O. 1927, c. 298, s. 3; 1937, c. 10, s. 3.

Issue of
search
warrant.

4. If any person makes oath before a justice of the peace, that he has reason to believe, and does believe that sand, gravel or stone, in respect to which a violation of the provisions of section 1, 2 or 3 has been committed, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to any sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and if any sand, gravel or stone is found thereon or

thereat, he shall seize the same and the vessel, if any, in which the same is contained, and shall keep them secure until final action as hereinafter provided is had thereon. R.S.O. 1927, c. 298, s. 4.

5. The owner, master or person in possession of the vessel, or person in possession of sand, gravel or stone taken in contravention of the provisions of this Act, shall without further information laid be summoned forthwith by the justice who issued the warrant to appear before a magistrate, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the magistrate that a violation of section 3 has been committed, the magistrate may convict the owner, master or person in possession. 1937, c. 10, s. 4. Prosecution.

6. In any prosecution the burden of proving the right to take any sand, gravel or stone shall be upon the person charged with a violation of the Act. 1937, c. 10, s. 5. Burden of proof.

7.—(1) Any person contravening any of the preceding provisions of this Act shall on summary conviction incur a penalty of not less than \$10 or more than \$1,000 for each offence, but there shall be no prosecution under this Act without the authority of the Attorney-General for Ontario, in writing, signed by him. R.S.O. 1927, c. 298, s. 7 (1). Penalty.

(2) In addition to all other remedies provided by *The Summary Convictions Act* for the recovery of any penalty, such penalty if not paid in accordance with the conviction may be levied by the sale of any vessel, conveyance, drag-line, or other mechanical device involved in the commission of the offence under the warrant of the convicting magistrate. 1937, c. 10, s. 6. Sale of vessel, etc., for payment of penalty.
Rev. Stat., c. 136.

(3) Upon return being made of the sale after satisfying the penalty and the costs of the sale, the overplus, if any, shall be paid to the owner of the vessel. R.S.O. 1927, c. 298, s. 7 (3). Payment of balance to owner.

BEDS OF RIVERS AND STREAMS.

8.—(1) No person shall remove any stone, gravel, earth or sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities and in no case shall any gravel, earth or sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe or watermain erected or laid by a municipal corporation. Removal of stone, etc., from beds of certain streams prohibited.

Penalty. (2) Any person who contravenes this section shall, for each offence on summary conviction incur a penalty of not less than \$10, or more than \$25. R.S.O. 1927, c. 298, s. 8 (1, 2).

Proclamation prohibiting removal of sand, gravel, etc.

Rev. Stat., c. 334.

9.—(1) Notwithstanding anything contained in this Act, *The Beaches and River Beds Act* or any other Act, or in any regulation or order made under any of the said Acts, the Lieutenant-Governor in Council, upon the recommendation of the Minister of Mines, may direct the issue of a proclamation prohibiting the taking, removal and carrying away by cart or truck, or by any boat or vessel or other water craft, or by any other vehicle or craft, of any sand, gravel, stone or earth from any bed, beach, shore or waters of, or adjacent to any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of the said lakes adjacent to the said shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the Order-in-Council, and such prohibition shall extend to the owner, tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation, or of any order of the Ontario Municipal Board and to every other individual and corporation.

Penalty. (2) Every person who contravenes the prohibition contained in any such proclamation shall incur a penalty of not less than \$10 nor more than \$100 for each offence to be recoverable under *The Summary Convictions Act*. 1929, c. 77, s. 2.

Rev. Stat., c. 136.

REMOVING SAND FROM ROADS.

Removal of stone, etc., from street or road prohibited.

10.—(1) No person shall remove any stone, gravel, earth or sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

Penalty.

(2) Any person contravening this section shall on summary conviction be liable to a penalty not exceeding \$10 for every load removed. R.S.O. 1927, c. 298, s. 9.

PROCEDURE ON PROSECUTIONS.

Provisions of Rev. Stat., c. 136, to apply.

11.—(1) Penalties imposed by this Act may be recovered under the provisions of *The Summary Convictions Act* and save as otherwise provided by this Act the provisions of such Act shall apply to all proceedings taken under this Act.

Service of proceedings.

Rev. Stat., c. 136.

(2) In addition to the method of service prescribed by *The Summary Convictions Act* any summons or other proceeding may, where it is directed to a person on board any vessel, be served by leaving it, or a copy thereof, with the person who is,

or appears to be, in charge or command of such vessel. 1937, c. 10, s. 8.

12. In any information or complaint, laid under sections 1 to 3, it shall be sufficient to allege that the act charged was done without consent, and if at the hearing it appears that the act charged was committed by the person charged in the information or complaint, the burden of proving consent or consents by this Act required, shall be upon him. R.S.O. 1927, c. 298, s. 11.

Burden of proof of consent.

13. The name of the owner in the information may be changed to that of any other owner to accord with the evidence, and no question which may arise as to the title to the land shall affect the authority of the magistrate or justices to determine whether the consent of the owner has been obtained. R.S.O. 1927, c. 298, s. 12.

Variance between information and evidence as to ownership.

14. The Lieutenant-Governor in Council may make such regulations as to the terms and conditions upon which licenses may be granted under this Act and as to the fees payable therefor as he may deem expedient for the more effectual carrying out of the provisions of this Act. R.S.O. 1927, c. 298, s. 13.

Regulations as to licenses.
