

1914

c 244 Beach Protection Act

Ontario

© Queen's Printer for Ontario, 1914

Follow this and additional works at: <http://digitalcommons.osgoode.yorku.ca/rso>

Bibliographic Citation

Beach Protection Act, RSO 1914, c 244

Repository Citation

Ontario (1914) "c 244 Beach Protection Act," *Ontario: Revised Statutes*: Vol. 1914: Iss. 2, Article 74.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1914/iss2/74>

CHAPTER 244.

An Act to protect Beaches and Shores and Beds of Rivers and Streams.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as *The Beach Protection Act*. Short title.
2 Geo. V. c. 63, s. 1.

2. In this Act "vessel" shall include boat, scow, raft or other craft. Interpretation.
2 Geo. V. c. 63, s. 2.

3. Nothing in this Act shall apply to property belonging to or subject to the legislative control of the Dominion of Canada. Act not to affect Dominion property.
2 Geo. V. c. 63, s. 3.

BEACHES AND SHORES.

4.—(1) No person shall take or carry away in any vessel, or otherwise transport by water, any sand, gravel or stone from the beach, shore or waters of Lake Eric, Lake Ontario or Lake Huron, so far as they are within the legislative jurisdiction of Ontario, or from any bar or flat, within such jurisdiction, adjoining any channel or entrance to such lakes unless such sand, gravel or stone is taken from a locality distant three rods or more beyond low water mark; or if the same is taken within that distance, unless such person has the written consent of the owner of the beach, shore, bar or flat; or, if such beach, shore, bar or flat belongs to Ontario, unless such person has the consent of either the Lieutenant-Governor in Council or of the owner of the land to which such beach, shore, bar or flat is adjacent. Removal of sand, stones, etc., from beaches forbidden. Exceptions.

(2) The consent of the Lieutenant-Governor in Council shall be sufficient without the consent of the owner of the adjacent beach, shore, bar or flat; and such consent of the Lieutenant-Governor in Council shall be necessary, where the Lieutenant-Governor in Council issues a proclamation so declaring with reference to any locality described in the proclamation. Consent of Lieutenant-Governor in Council.
2 Geo. V. c. 63, s. 4.

5. No person, without the consent required by this Act, shall land or go upon such beach, bar, flat or shore, for the purpose of removing, or assisting to remove, any gravel, sand or stone therefrom. Landing on beaches, etc., to remove sand, etc., forbidden.
2 Geo. V. c. 63, s. 5.

Possession of sand, etc., with intent to remove forbidden.

6. No person shall have on board his vessel, or on a vessel in his possession, any sand, gravel or stone, taken without the consent required by this Act, from any such beach, bar, flat or shore, with intent to carry the same away. 2 Geo. V. c. 63, s. 6.

Issue of search warrant.

7. 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 sections 4, 5 or 6 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 therein or thereon, 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. 2 Geo. V. c. 63, s. 7.

Prosecution.

8. The owner, master, or person in possession of the vessel shall without further information laid be summoned forthwith by the Justice who issued the warrant, to appear before a Police Magistrate, or two Justices of the Peace; and if such owner, master or person in possession fails to appear, or if it is shewn to the satisfaction of the Police Magistrate or Justices of the Peace that a violation of section 6 has been committed, the Magistrate or Justices may convict the owner, master or person in possession of the vessel. 2 Geo. V. c. 63, s. 8.

Burden of proof.

9. If any question arises as to the place from which the sand, gravel or stone was taken, the burden of proving the right to take the same shall be upon the owner, master or person in possession of the vessel whereon the same was found and seized. 2 Geo. V. c. 63, s. 9.

Penalty.

10.—(1) Any person contravening any of the preceding provisions of this Act shall incur a penalty of not less than \$10 or more than \$40 for each offence.

Application of penalty.

(2) One moiety of the penalty shall belong to the prosecutor, and the other moiety to the owner of the land, or if there is no prosecutor other than the owner, then wholly to the owner.

Sale of vessel for payment of penalty.

(3) In addition to all other remedies provided by *The Ontario Summary Convictions Act* for the recovery of the penalty, the same, if not paid in accordance with the conviction, may be levied by the sale of the vessel under the warrant of the convicting Magistrate or Justices.

Payment of balance to owner.

(4) 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. 2 Geo. V. c. 63, s. 10.

BEDS OF RIVERS AND STREAMS.

11.—(1) No person shall remove any stone, gravel, earth or sand from the bed of any river, stream or creek running between two municipalities, or over which a bridge has been erected, or through or under which a drainage pipe or water main has been laid by or at the instance of a municipal corporation, so as to endanger the safety of or injure such bridge, pipe or main, without the consent of the council of the municipality or municipalities within whose limits the stone, gravel, earth or sand is to be taken. Removal of stones, etc., from beds of certain streams prohibited.

(2) Any person who contravenes this section shall, for each offence, incur a penalty of not less than \$10, or more than \$25. Penalty.

(3) Prosecutions under this section shall be taken before a Police Magistrate or two Justices of the Peace. 2 Geo. V. c. 63, s. 11. Prosecution.

PROCEDURE ON PROSECUTIONS.

12.—(1) The provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions under this Act unless where otherwise expressly provided. Recovery of penalties. Rev. Stat. c. 90.

(2) The Police Magistrate or Justices shall, in the conviction, state to whom the penalty is to be paid, or between whom the same is to be apportioned. 2 Geo. V. c. 63, s. 12. Magistrates to state application of penalty.

13. In addition to the mode provided by *The Ontario Summary Convictions Act* for the service of a summons or other proceeding, the same may be served by leaving it, or a copy thereof, for the person to be served, on board any vessel to which he belongs, with the person being, or appearing to be, in charge or command of the vessel. 2 Geo. V. c. 63, s. 13. Service of proceedings.

14. In any information or complaint, laid under sections 4 to 6, 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. 2 Geo. V. c. 63, s. 14. Burden proof of consent.

15. 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. 2 Geo. V. c. 63, s. 15. Variance between information and evidence as to ownership.

16. Nothing in this Act shall affect the provisions of any other Act under which the right to take sand or gravel from the shore or bed of any lake, river, stream, creek or other water may be lawfully conferred. 2 Geo. V. c. 63, s. 16. Saving as to rights given under other Acts.