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c 94 Provincial Parks Act

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CHAPTER 94.

The Provincial Parks Act.

Interpretation.

1. In this Act "Minister" shall mean the Minister of Lands and Forests or the Minister to whom the control and management of a park is assigned. R.S.O. 1927, c. 82, s. 1.

PART I.

2. The Lieutenant-Governor in Council may withdraw from sale, settlement and occupancy under the provisions of The Public Lands Act, and The Mining Act, any tract of land being the property of the Crown, and not suitable for settlement or agricultural purposes, and may reserve and set apart the same as a public park and forest reserve, fish and game preserve, health resort and pleasure ground for the benefit, advantage and enjoyment of the people of Ontario, and for the protection of the fish, birds, game and fur-bearing animals therein, subject to the provisions of this Act and of the regulations made thereunder, and any such tract shall be known as a provincial park and called by a distinctive name. R.S.O. 1927, c. 82, s. 2.

3. The Lieutenant-Governor in Council may add to the park any adjacent tract of land the property of the Crown, alter the boundaries of the park, or withdraw any tract of land therefrom, and after publication of the Order-in-Council in the Ontario Gazette any such change shall take effect. R.S.O. 1927, c. 82, s. 3.

4. Where any land which has been located, sold, leased or granted is subsequently included in a provincial park, or where any of the land so included is covered by a license or permit to cut timber, the Lieutenant-Governor in Council may impose such terms and conditions with respect thereto as he shall deem proper, but so as not to curtail or diminish any of the rights of the locatee, purchaser, lessee or owner of such land or the holder of the timber license or permit, except with his consent. R.S.O. 1927, c. 82, s. 4.

5. Except as hereinafter provided, no timber or wood shall be cut within the park and no person shall locate, settle.
upon, use or occupy any part of a provincial park. R.S.O. 1927, c. 82, s. 5.

6. Every provincial park shall be under the control and management of the Minister, and the Lieutenant-Governor in Council may make regulations for,—

(a) the care, preservation, management and improvement of the park, and of the watercourses, lakes, trees, shrubbery, minerals, natural curiosities and other matters therein;

(b) controlling and regulating the level of the water in the rivers, streams and lakes of the park with the view of preventing damage to the trees and vegetation on the shores thereof;

(c) leasing for any term of years such parcels of land in the park as he deems advisable for the construction of buildings for ordinary habitation, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the park as a sanitarium or health or summer resort;

(d) issuing licenses or permits to cut timber within the limits of the park and for the improvement of it and for fire wood for the use of persons engaged in and about the park, and prescribing the conditions and requirements of such licenses or permits;

(e) the working of mines and the developing of mineral interests within the limits of the park, and the issuing of licenses or permits of occupation for those purposes; but no lease, license or permit shall be made, granted or issued under this or clause (c) or (d) which will in any way impair the usefulness of the park for the purposes for which it is designed;

(f) issuing licenses for shops and for houses for the accommodation of visitors and places where trade and industries necessary for the accommodation of persons resorting to the park may be carried on;

(g) the prevention and extinguishment of fires;

(h) the preservation and protection of fish, birds, and animals in the park, and for the destruction and sale of any fish, birds, and animals, which may be deemed by the Minister to be noxious, injurious, or destructive, or the numbers of which he may deem it advisable in the public interest to reduce;
Trespassers.  
(i) the removal and exclusion of pedlars, travelling salesmen and trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the park without proper authority;

Appointment of officers.  
(j) the appointment of a superintendent and wardens, rangers, or other officers to see to the carrying out of the provisions of this Act and the regulations, and prescribing their powers and duties, and providing for their salaries or other remuneration out of any money which may be appropriated for that purpose by this Legislature;

Penalties.  
(k) the imposition of penalties for any violation of the provisions of this Act or of the regulations not exceeding in any case $50; and

General purposes.  
(l) generally for all purposes which he may deem necessary for carrying out the provisions of this Act.  

R.S.O. 1927, c. 82, s. 6.

Publication of regulations.  
7.—(1) Every such regulation after its publication for four consecutive weeks in the Ontario Gazette and in any other manner prescribed by the Lieutenant-Governor in Council shall have the like force and effect as if herein enacted.

Laying before Assembly.  
(2) Every such regulation shall be laid before the Assembly forthwith if the Assembly is then in session, or if it is not then in session within fifteen days after the opening of the next session.  
R.S.O. 1927, c. 82, s. 7.

Penalty for illegal fishing, hunting, etc.  
8.  Hunting, trapping, fishing, spearing, catching, or killing within the park of any fish, bird or animal, except as permitted by this Act or regulations made thereunder, is prohibited under a penalty not exceeding $200 for each offence.  
R.S.O. 1927, c. 82, s. 8.

Having illegal implements in park.  
9.  Carrying or using within the park any fishing net, night line, trap, spear, firearm, explosive, or any weapon or instrument for hunting, trapping, fishing, spearing, catching, or killing, of fish, bird, or animal, except as permitted by this Act or regulations made thereunder, is prohibited under a penalty not exceeding $200 for each offence.  
R.S.O. 1927, c. 82, s. 9.

When killing of game, etc., may be permitted.  
10.—(1) Upon the report of the Minister that any species of animal or bird has increased to such an extent that its numbers may be lessened without detriment to the park,
or the purposes for which the park was established, the Lieutenant-Governor in Council may authorize the taking or killing of such animals or birds, not exceeding the number specified in the Order-in-Council, under the direction and supervision of the superintendent of the park.

(2) The skins or furs of the animals so taken or killed shall be marked by the superintendent with the name of the park, and also by punching or perforating the same in such manner as may be prescribed by the Lieutenant-Governor in Council, and such skins or furs, or the animals or birds so taken, or their carcases, may be sold by the Minister and the proceeds of the sale shall be applied towards defraying the expenses of the park, and the possession or sale of skins or furs so taken and marked, or of such animals or birds or their carcases, shall be lawful notwithstanding anything contained in any other Act or regulation.

(3) Every person who without lawful authority marks the skin or fur of any such animal in the manner described in subsection 2, or who has in his possession or sells any such skin or fur knowing that the same has been so marked, in addition to any other penalty to which he may be liable, shall incur a penalty not exceeding $200.

(4) Every person who without lawful authority has in his possession any stamp, punch or other instrument or thing by means of which any such skin or fur may be marked in the manner described in subsection 2, in addition to any other penalty to which he may be liable, shall incur a penalty of $200. R.S.O. 1927, c. 82, s. 10.

11.—(1) For the purpose of supplying food for visitors or officers of the park or rangers or labourers therein employed by or under the control of the superintendent, the Minister, or such other person as shall be authorized by the Lieutenant-Governor in Council, may issue a license to carry hooks and lines and to fish therewith.

(2) No fish caught within the waters of the park may be sold, bartered, or trafficked in, under a penalty not exceeding $50 for each offence. R.S.O. 1927, c. 82, s. 11.

12. Any park ranger or member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may, on view without warrant or legal process, arrest and bring before a justice of the peace or before the superintendent to be dealt with according to law, any person found violating any provision of this Act or of the
regulations made thereunder and the superintendent shall have the like power of arresting such person and when he is arrested may summarily try him for any of the offences hereinafter mentioned, and a park ranger or the superintendent may on view arrest and remove from the park any person found violating the provisions of this Act, or carrying or having in his possession a fishing net, trap, spear or night line, or firearm or other explosive, or other weapon or instrument for catching or killing fish other than hook and line or for the destruction of game or animals. R.S.O. 1927, c. 82, s. 12.

13.—(1) The superintendent or any park ranger or any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may seize, take possession of and retain any net, trap, spear, firearm, explosive, weapon or instrument which he may find within the park, whether the same is held or set out with intent to take or kill any fish, bird or animal the taking or killing of which is forbidden by this Act, or otherwise, and may also seize and take possession of all furs, skins, pelttries, fish, birds or animals found within the park, and the burden of proving that such furs, skins, pelttries, fish, birds or animals have not been taken or obtained contrary to law shall rest upon the person claiming the same or in whose possession they may be found.

(2) The superintendent shall forthwith report any such seizure to the Minister, who may direct the confiscation of the articles seized or any of them and may direct that they be destroyed, or sold as the regulations may provide.

(3) For the purpose of searching for and seizing nets, traps, spears, firearms, explosives, weapons, instruments, furs, skins, pelttries, fish, birds or animals, the superintendent, any park ranger, any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may without a search warrant, search any boat, craft or vehicle propelled by gas, steam, electricity or any other means, and any person, building, place, or receptacle wherever found within the park, and may for such purpose enter into any building or place, or any part thereof, and may break open any door, lock or fastening of any building, place or receptacle, and shall have the power provided in subsection 1.

(4) The superintendent or any park ranger, or any member of the Ontario Provincial Police Force, or other person appointed by the Minister for the purpose, may seize, take possession of and retain any net, trap, spear, firearm, explosive,
weapon or instrument used in the violation of any provision of this Act and found without the limits of the park, and upon the direction of any justice of the peace for the confiscation and sale thereof the articles so found shall be sold in such manner as the regulations may provide.

(5) The proceeds of all articles sold under the provisions of this section shall be paid into the credit of the Consolidated Revenue Fund.

(6) An arrest, removal, seizure, confiscation, destruction or sale shall not relieve the offender from any other penalty to which he is liable under this Act or otherwise. R.S.O. 1927, c. 82, s. 13.

14. Timber and wood may be cut within the limits of the park under the authority of a timber license issued under The Crown Timber Act or the regulations made thereunder, or by the authority of the Minister, or under the regulations made by the Lieutenant-Governor in Council for the government and maintenance of the park. R.S.O. 1927, c. 82, s. 14.

15. A timber license over or in respect of any land within the park shall not entitle the holder thereof to exclusive possession of such land as against the Crown or its agents, servants, licensees or lessees, or the holder of any permit from the Crown, nor shall any such license exempt the holder thereof, his agents or employees, from the provisions of sections 8 and 9. R.S.O. 1927, c. 82, s. 15.

16. All cutting of timber by a licensee shall be subject to the supervision and control of a person appointed by the Minister from time to time for that purpose, but in the event of a disagreement between the person so appointed and the licensee, the matter may be referred to the Minister whose decision shall be final, and such cutting shall take place only as and when directed by the Minister and subject to such diameter limits, sequence of cutting, removal and disposition of slash, provision for re-seeding, and such further and other restrictions as may be determined by the Minister from time to time. R.S.O. 1927, c. 82, s. 16.

17. For the purpose of watershed protection, beautification of park, fire protection, game preserves or game shelters, or for any other purpose that from time to time the Minister may deem advisable, the Minister, out of the areas included in any timber license, may withdraw certain timber from cutting and direct that such timber shall be left standing, and the licensee shall not be entitled to any compensation for
such timber so withdrawn unless directed by the Lieutenant-Governor in Council. R.S.O. 1927, c. 82, s. 17.

18. All licenses from time to time issued shall, among other things, contain such provision as may from time to time be made by the Minister for brush disposal, diameter limit, timber cut, filing of plans for each season’s operations and obtaining the consent and approval of the officer in charge of operations upon the limit. R.S.O. 1927, c. 82, s. 18.

19. All timber licenses or permissions to cut timber issued for lands included in any provincial park shall be subject, not only to The Crown Timber Act and regulations made thereunder, but also to all special regulations in respect of timber dues, ground rent and fire charges which may from time to time be made by the Lieutenant-Governor in Council. R.S.O. 1927, c. 82, s. 19.

20. Mining exploration or prospecting for minerals within the park is prohibited except under and in accordance with the regulations made under this Act. R.S.O. 1927, c. 82, s. 20.

21.—(1) In this section “intoxicating liquor” shall mean “liquor”, and “beer” shall mean “beer” as defined by The Liquor Control Act.

(2) No license shall be issued for the sale of intoxicating liquor within the park or within one mile of any part thereof. R.S.O. 1927, c. 82, s. 21 (1, 2).

(3) Any parcel, package or case containing intoxicating liquor although addressed or consigned to more than one person shall, for the purposes of this section, be deemed to be in the possession of one person only.

(4) For the purpose of enforcing within the park the provisions of this Act and of any enactment of the Provincial Legislature for the purpose of preventing, decreasing or controlling the sale or use of intoxicating liquors within the Province, every ranger shall have all the powers and authority of a constable, license inspector, or other officer appointed under such last mentioned enactment. R.S.O. 1927, c. 82, s. 21 (4, 5).

22. Where no penalty is herein or otherwise provided any person violating any provision of this Act shall incur a penalty not exceeding $50. R.S.O. 1927, c. 82, s. 22.
23. In addition to any penalty provided by this Act for the violation of any of its provisions the offender shall be liable for all damages caused by him. R.S.O. 1927, c. 82, s. 23.

24. A superintendent and park ranger shall have all the power and authority of a member of the Ontario Provincial Police Force. R.S.O. 1927, c. 82, s. 24.

25. The superintendent shall, within the limits of the park and for one mile from any part thereof, for the purposes of enforcing law and order and the provisions of this Act and the regulations, have all the powers, rights and privileges of a magistrate, and shall have jurisdiction over and within the park and the territory surrounding the same for the distance of one mile from any part thereof unless and until otherwise provided by the Lieutenant-Governor in Council, or the Lieutenant-Governor in Council may appoint another person as magistrate with such jurisdiction; but nothing in this section shall interfere with the jurisdiction of other magistrates. R.S.O. 1927, c. 82, s. 25.

26. During the construction and after the completion of any railway passing through a park the Minister may appoint as many rangers, officers or guardians as he may see fit for the protection of the fish, animals and birds, and of any other property or interest of the Crown, and the expenses incident to and connected with such service, including the salaries of such rangers, officers or guardians, shall be a debt due to the Crown from the railway company, recoverable in any court of competent jurisdiction. R.S.O. 1927, c. 82, s. 26.

27. The superintendent shall be ex officio a medical officer of health for the park and for the territory surrounding the same for the distance of one mile therefrom or from any part thereof, and shall have all the powers and perform all the duties by The Public Health Act, or any other Act, conferred or imposed upon medical officers of health or local boards of health, and all park rangers, whether employed temporarily or otherwise, shall be ex officio sanitary inspectors under that Act and shall have all the powers and perform all the duties conferred or imposed upon sanitary inspectors thereunder. R.S.O. 1927, c. 82, s. 27.

28.—(1) Nothing herein shall withdraw the territory comprising the park or that within a mile from any part thereof from the operation of The Game and Fisheries Act, except as therein or herein otherwise provided.

(2) All persons appointed under The Game and Fisheries Act, to enforce the provisions thereof, shall as to the territory game laws.
in every provincial park be under the control and direction of the superintendent of the park, and this Act and the regulations made thereunder shall, as to said territory, take precedence over The Game and Fisheries Act, and the regulations made under said last mentioned Act. R.S.O. 1927, c. 82, s. 28.

29.—(1) The superintendent may issue licenses to fit and proper persons to act as guides in conducting tourists and visitors into and through the park, and any unlicensed person who acts as guide to any tourist or visitor shall incur a penalty not exceeding $20 for each offence.

(2) The annual fee to be paid for a license shall not exceed $1.

(3) The superintendent may cancel any such license upon proof of a contravention of this Act or of the regulations by the licensee. R.S.O. 1927, c. 82, s. 29.

30. Any person arrested for a contravention of any of the provisions of this Act or of the regulations who is punishable upon summary conviction may before or after conviction be committed to the common gaol or to any lock-up within a district in which the park or any part thereof is situate, or to any nearer gaol or lock-up which may to the committing justice appear more convenient. R.S.O. 1927, c. 82, s. 30.

31. Except where otherwise provided by this Act the provisions of The Summary Convictions Act shall apply to prosecutions and proceedings for the recovery of penalties under this Act. R.S.O. 1927, c. 82, s. 31.

32. Except as expressly provided in this Act or in any Act creating a provincial park, the provisions of this Part shall apply to every park named in this Act and to every other provincial park that heretofore has been or hereafter may be created under the provisions of this Act. R.S.O. 1927, c. 82, s. 32.

33. Any tract of land incorporated into a provincial park or any tract of land which is added to and becomes part of any provincial park under the provisions of this Act, shall be deemed to be and to have been severed from any municipality of which it may have been a part as from the date that such tract became a provincial park or a part thereof. 1937, c. 64, s. 2.
34. The Algonquin National Park is hereby continued under the name of the Algonquin Provincial Park, and, except as hereinafter expressly provided, shall be subject to the provisions of this Act. R.S.O. 1927, c. 82, s. 33.

35. The tract of land comprising the following townships, being the lands of the Crown, and lying within the Territorial District of Nipissing, that is to say, the Townships of Peck, Hunter, Devine, Biggar, Wilkes, Canisbay, McLaughlin, Bishop, Osler, Pentland, Sproule, Bower, Frewick, Lister, Preston, Dickson, Anglin, Deacon, all that portion of the Township of Finlayson east of the side road between lots 20 and 21 in the several concessions thereof; all that portion of the Township of McCraney east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Butt, east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Paxton, east of the side road between lots 15 and 16 in the several concessions thereof; all that portion of the Township of Ballantyne east of the side road between lots 20 and 21 in the several concessions thereof, except lot 21 in the 5th concession; all that portion of the Township of Boyd, south of the line between concessions 10 and 11, the west half of the Township of Fitzgerald comprising lots 1 to 20 in concessions 1 to 14 inclusive; lots 1 to 20 in concessions 1 to 14 inclusive in the Township of White; lots 16 to 38 in concessions 1 to 14 inclusive in the Township of Niven, and lots 16 to 37 in concessions 4 to 15 inclusive, the north 80 acres of lot 36 and the north 72 acres of lot 37 in the 2nd concession, and lots 35, 36 and 37 in the 3rd concession in the Township of Clancy, together with all those portions of the Townships of Lawrence, Nightingale and Airey, which townships are adjacent to the southern boundary of the said park, comprised in timber licenses numbers 114, 115, 117, 119, 122 and 132 issued for the year ending 30th April, 1911, is hereby withdrawn from sale, settlement and occupancy under the provisions of The Public Lands Act, and The Mining Act, and is set apart as a public park, forest reservation and health resort for the benefit and enjoyment of the people of Ontario and shall be known as the "Algonquin Provincial Park." R.S.O. 1927, c. 82, s. 34.

36. All interest or claim of the holder or owner of a timber license heretofore issued or renewed in or to any kind of timber in the Algonquin Provincial Park shall, as to pine timber on and after the expiry of thirty years from the 30th
day of April, 1930, and as to all timber other than pine on and after the expiry of fifteen years from the said 30th day of April, 1930, cease and determine and all the timber covered by such licenses shall become the property of His Majesty; provided that at the expiration of such respective periods the holders of licenses then in force shall have the first right to any new licenses over any land covered by such expiring licenses, but upon such terms and conditions and payments as the Minister may deem just having regard to the condition of the wood, pulp and lumbering industry in the Province of Ontario at that time. R.S.O. 1927, c. 82, s. 35.

37. Section 36 shall not apply to any license or licenses issued under or by virtue of any sale of timber made by the Crown subsequent to the 1st day of July, 1924. R.S.O. 1927, c. 82, s. 36.

38. The Rondeau Provincial Park is also hereby continued, and except as hereinafter expressly provided shall be subject to the provisions of this Act. R.S.O. 1927, c. 82, s. 37.

39. The tract of land, marsh and land covered with water hereinafter mentioned, that is to say, so much of the Rondeau Peninsula otherwise known as Pointe aux Pins, in the County of Kent, as is the property of the Province and which may be known and described as follows, namely, all that parcel of land, marsh and land covered with water bounded on the north by the north limit of lot number 1 on said Pointe aux Pins and said limit produced easterly to the water's edge of Lake Erie, as shown on plan of survey by Provincial Land Surveyor Henry Lawe, dated September 8th, 1864, of record in the Department of Lands and Forests; on the east and south by the waters of said Lake Erie and on the west by the waters of the Harbour of Rondeau and the easterly breakwater pier at the entrance to said Harbour; excepting thereout nevertheless said lot number 1 on Pointe aux Pins containing 58½ acres, as granted by Letters Patent to Isaac Swartout in 1872, and also that part of the Sand Beach containing 15½ acres, dividing the Harbour of Rondeau from Lake Erie as vested in the Government of Canada for lighthouse purposes on June 21st, 1892, containing by admeasurement an area of land, marsh and land covered with water of 4,946 acres, more or less, is hereby reserved and set apart as a public park, forest reservation and health resort for the benefit, advantage and enjoyment of the people of Ontario, and shall be known as the “Rondeau Provincial Park.” R.S.O. 1927, c. 82, s. 38.

40. No timber or wood shall be cut within the limits of
the Park, except dead or fallen wood, or in clearing for roads or other Park purposes, or underbrushing in clearing and maintaining the Park as shall be provided for by regulation, and then only under the direction of the ranger. R.S.O. 1927, c. 82, s. 39.

41.—(1) No person shall at any time shoot, hunt, trap, take, kill or destroy any animal, bird or fowl within Rondeau Park, except under authority of a license or permit granted in accordance with the regulations hereinafter authorized.

(2) The Lieutenant-Governor in Council may make regulations as to the shooting, hunting, trapping, taking, fishing, killing or destroying within Rondeau Park, any animal, fish, bird or fowl protected by the provisions of this Act.

(3) Any person offending against the provisions of this section or violating the provisions of such regulations shall for each offence incur a penalty of not less than $20 and not more than $50. R.S.O. 1927, c. 82, s. 40; 1934, c. 44, s. 2.