

period not longer than the maximum, nor shorter than the minimum period for such offence, in such schedule prescribed, and therein appearing opposite the number of the said section and sub-section. 62 V. c. 8, s. 8.

DOUBLE PENALTIES.

10. Any person who commits an offence under or against the following sub-sections of section 4, namely: sub-sections 1 (b), 1 (c), 1 (e), 1 (f), 1 (g), shall be liable to a double penalty as follows:

- (a) Under section 4, sub-section 1 (b), to a penalty double that provided for killing the same class of game in close season, on any day other than Sunday.
- (b) Under section 4, sub-section 1 (c), to a penalty double that provided for killing the same class of game in close season, in any other part of the Province than the parts in sub-section specified.
- (c) Under section 4, sub-section 1 (e), to a penalty double that provided for killing the same class of game in close season without the use, means or assistance of artificial lights.
- (d) Under section 4, sub-section 1 (f), to a penalty double that provided for killing the same class of game in close season without the use, means or assistance of punt guns, swivel guns, nets, or artificial lights.
- (e) Under section 4, sub-section 1 (g), to a penalty double that provided for killing the same class of game in close season without the means or assistance of, or when not accompanied by any dog. 62 V. c. 8, s. 9.

11. If, at the hearing of any complaint for an offence under this Chapter, it appears that the defendant is not only guilty of the offence complained of, but other facts are shown respecting such offence, sufficient to sustain a conviction for an offence for which a double penalty is provided, the justice shall, in every such case, notwithstanding the complaint laid, enter a conviction and impose a penalty which he would have been authorized to enter and impose had such complaint been laid for the greater offence so proved. 62 V. c. 8, s. 10.

12. If, at the hearing of any complaint for an offence under this Chapter, for which a double penalty is provided, it appears that the defendant has not been guilty of the offence complained of, but sufficient facts are shown respecting such offence to sustain a conviction for an offence for which a single penalty is provided, the justice shall, in every such case, notwithstanding the complaint laid, enter a conviction and impose a penalty which he would have been authorized to enter and impose had such complaint been laid for the lesser offence so proved. 62 V. c. 8, s. 11.

PROSECUTIONS.

13. The provisions of Chapter 123 of these Consolidated Statutes, relating to summary convictions, and the forms authorized thereunder, shall apply as far as applicable, and when not inconsistent with this Chapter, to all prosecutions and proceedings under this Chapter. Every justice within the Province shall have full jurisdiction over every offence under this Chapter, whether the same was committed within or without the city, county, town, parish or district for which such justice may have been appointed, and irrespective of the amount or extent of the penalty for such offence by this Chapter imposed; and every summons, order, warrant, or other process, made or issued by any justice under the provisions of this Chapter, shall and may be served, executed and enforced by any constable according to the tenor thereof, in any and every city, county, town, parish or district within the Province, whether such constable may have been appointed to act in or for such city, county, town, parish or district, or otherwise. 62 V. c. 8, s. 12.

14. Information or complaints under this Chapter may be laid by any warden, and after ten days from the commission of the offence any person may, in the absence of such action by a warden, lay an information or complaint in his own name. 62 V. c. 8, s. 13.

COMPLAINTS AGAINST CORPORATIONS.

15. Whenever a complaint is laid against a corporation for an offence under this Chapter, all proceedings thereon may so far as is consistent with the provisions of this Chapter, be had and taken pursuant to the provisions of Chapter 123 of these Consolidated Statutes, relating to summary convictions. 62 V. c. 8, s. 14 am.

16. The justice shall, whether such corporation appears and defends, or whether a plea of "not guilty" is entered by the justice, and in case of non-appearance, upon proof of the due service of such notice, proceed with the hearing of the complaint, and in case of conviction, may award any penalty by this Chapter authorized and provided, with costs, and may enforce and collect the same by warrant of distress against any personal property of such corporation. 62 V. c. 8, s. 16.

17. Nothing in this Chapter contained shall be construed so as to prevent any corporation guilty of an offence under this Chapter from being proceeded against under the provisions of the criminal law of Canada. 62 V. c. 8, s. 16.

CONVICTIONS.

18. On any conviction for an offence under this Chapter, the justice may, by his conviction, after adjudging the payment of the fine, as hereinbefore provided, for the offence committed, with costs, order and adjudge:—

(1) That in default of payment thereof forthwith, such fine and costs be levied by distress and sale of the goods and chattels of the defendant, and if sufficient distress cannot be found, that the defendant be imprisoned in the common gaol, or other prison of the county in which the conviction is made, for a period prescribed by this Chapter for such offence; or

(2) That in default of the payment of the said fine and costs forthwith, the defendant be imprisoned in the common gaol, or other prison of the county in which the conviction is made, for a period prescribed by this Chapter for such offence. 62 V. c. 8, s. 17.

19. When the conviction, or order of conviction, is made in the manner prescribed in section 18, sub-section (1), the justice may verbally, or by written warrant, order the defendant to be kept and detained in safe custody until the return of the warrant of distress issued thereunder, unless the defendant gives sufficient security, by recognizance, or otherwise, to the satisfaction of the justice, for his appearance at the time and place appointed for the return of the warrant of distress. 62 V. c. 8, s. 18.

APPLICATION OF PENALTIES AND COSTS.

20.—(1) Notwithstanding anything contained in any Act of Assembly, or any bye-law or regulation of any city, town or municipality, every fine imposed and collected under the authority of this Chapter shall be paid in full to the Surveyor-General, who shall, except as hereunder in this section stated, retain the same to form a fund under his control for the enforcement of the provisions of this Chapter.

(2) When complaint is laid and the information therefor furnished by a person other than a warden, the Surveyor-General may pay one half of the fine so collected to the complainant.

(3) When the complaint is laid by a warden, under information therefor furnished by any other person, the Surveyor-General may pay one quarter of the fine so collected to such informant. 62 V. c. 8, s. 19.

21. All costs and witness fees imposed and collected under the authority of this Chapter shall be paid by the justice collecting the same to the several persons thereto entitled, and should the mileage fees of such witnesses have been paid by the Surveyor-General, or out of the fund above referred to, the witnesses' mileage fees, so collected, shall be paid in full to the Surveyor-General. 62 V. c. 8, s. 20.

APPEAL ON MERITS ONLY.

22. In any case of review, reference, or other form of appeal, by certiorari or otherwise, from any conviction or order under this Chapter, the Judge or Court to which such appeal is made may, notwithstanding any defect or error in substance, or in form, in any information, summons, warrant, conviction or other process, proceeding, act, matter, or thing, in connection with the prosecution of the offence on which such conviction is made, or any variance in any manner arising or appearing, or any failure in any complaint or hearing thereon to negative exceptions which, if proved, would make the act complained of lawful, or any imposition of a penalty greater or less than that which might lawfully be imposed, hear and determine the review or appeal upon the merits of the case only, and the Judge or Court on review or appeal may confirm, reverse or modify the decision of such justice, or may make such order or conviction in the matter as the Judge or Court thinks just; and such conviction or order shall have the same effect and may be enforced in the same manner as if it had been made by such justice. 62 V. c. 8, s. 21.

EVIDENCE AND BURDEN OF PROOF.

23. On any prosecution for offences under or against this Chapter, the following facts, when shown, shall be prima facie evidence of the commission of the offences in this section referred to:

(1) Having in one's possession or under one's control, or selling or offering for sale during the close season, or in any closed district for any class of game, the carcass, or any portion thereof, or the green hide or pelt, or the nest or eggs of any game specified in section 3, shall be prima facie evidence of the commission of the offence specified in section 3, sub-section (1) with reference to such class of game.

(2) Having in one's possession or under one's control during the close season therefor, the undressed skin of any beaver, shall be prima facie evidence of the commission of an offence under or against the provisions of sub-section (2) of section 3. 62 V. c. 8, s. 22.

24. On the prosecution of an offence under section 7, sub-section (4), the onus shall be on the defendant of satisfying the justice that the person for whom he was acting as guide was, at the time of the alleged offence, duly licensed under this Chapter to hunt moose or caribou, as the case may be. 62 V. c. 8, s. 23.

25. Whenever, by this Chapter, it is made an offence to do any act without holding a license therefor, the onus in any prosecution shall be upon the person charged, to prove that he was the holder of the license required by this Chapter. 63 V. c. 39, s. 6, am.

26. Any person or persons to whom this Chapter is applicable shall be deemed guilty of violation of the provisions of sub-section (5) of section 7 hereof, if he or they be found upon any of the grounds in said sub-section (5) mentioned,