



Night Poaching Act 1828

1828 CHAPTER 69

An Act for the more effectual Prevention of Persons going armed by Night for the Destruction of Game. [19th July 1828]

WHEREAS an Act was passed in the Fifty-seventh Year of the Reign of His late Majesty King George the Third, intituled *An Act for Prevention of Persons going armed by Night for the Destruction of Game ; and for repealing an Act made in the last Session of Parliament, relating to Rogues and Vagabonds*: And whereas the Practice of going out by Night for the Purpose of destroying Game has nevertheless very much increased of late Years, and has in very many Instances led to the Commission of Murder, and of other grievous Offences; and it is expedient to repeal the said recited Act, and to make more effectual Provisions than now by Law exist for repressing such Practice :

May it please Your Majesty that it may be enacted ; and be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

Recited Act repealed.

That the said recited Act shall be and the same is hereby repealed, except so far as the same repeals any other Acts;

Persons taking or destroying Game by Night to be committed, for the 1st Offence, for 3 Months, and kept to hard Labour, and to find Sureties ;

and if any Person shall, after the passing of this Act, by Night, unlawfully take or destroy any Game or Rabbits in any Land, whether open or inclosed, or shall by Night unlawfully enter or be in any Land, whether open or inclosed, with any Gun, Net, Engine, or other Instrument, for the Purpose of taking or destroying Game, such Offender shall, upon Conviction thereof before Two Justices of the Peace, be committed for the First Offence to the Common Gaol or House of Correction for any Period not exceeding Three Calendar Months, there to be kept to hard Labour, and at the Expiration of such Period shall find Sureties by Recognizance, or in *Scotland* by Bond of Caution, himself in Ten Pounds, and Two Sureties in Five Pounds each, or One Surety in Ten Pounds, for his not so offending again for the Space of One Year next following;

2d Offence, 6 Months, and kept to hard Labour, and to find Sureties ;

and in case of not finding such Sureties, shall be further imprisoned and kept to hard Labour for the Space of Six Calendar Months, unless such Sureties are sooner found; and in case such Person shall so offend a Second Time, and shall be thereof convicted before Two Justices of the Peace, he shall be committed to the Common Gaol or House of Correction for any Period not exceeding Six Calendar Months, there to be kept to hard Labour, and at the Expiration of such Period shall find Sureties by Recognizance, or Bond as aforesaid, himself in Twenty Pounds, and Two Sureties in Ten Pounds each, or One Surety in Twenty Pounds, for his not so offending again for the Space of Two Years next following; and in case of not finding such Sureties, shall be further imprisoned and kept to hard Labour for the Space of One Year, unless such Sureties are sooner found;
3d Offence, to be liable to Transportation.

and in case such Person shall so offend a Third Time, he shall be guilty of a Misdemeanor, and being convicted thereof, shall be liable, at the Discretion of the Court, to be transported beyond Seas for Seven Years, or to be imprisoned and kept to hard Labour in the Common Gaol or House of Correction for any Term not exceeding Two Years; and in *Scotland*, if any Person shall so offend a First, Second, or Third Time, he shall be liable to be punished in like Manner as is hereby provided in each Case.

II Owners or Occupiers of Land, Lords of Manors, or their Servants, may apprehend Offenders. Offenders assaulting or offering Violence deemed guilty of Misdemeanor, and liable to be transported for Seven Years, or imprisoned for 2 Years.

And be it enacted, That where any Person shall be found upon any Land committing any such Offence as is herein-before mentioned, it shall be lawful for the Owner or Occupier of such Land, or for any Person having a Right or reputed Right of Free Warren or Free Chase thereon, or for the Lord of the Manor or reputed Manor wherein such Land may be situate, and also for any Gamekeeper or Servant of any of the Persons herein mentioned, or any Person assisting such Gamekeeper or Servant, to seize and apprehend such Offender upon such Land, or in case of Pursuit being made, in any other Place to which he may have escaped therefrom, and to deliver him, as soon as may be, into the Custody of a Peace Officer, in order to his being conveyed before Two Justices of the Peace; and in case such Offender shall assault or offer any Violence with any Gun, Crossbow, Fire Arms, Bludgeon, Stick, Club, or any other offensive Weapon whatsoever, towards any Person hereby authorized to seize and apprehend him, he shall, whether it be his First, Second, or any other Offence, be guilty of a Misdemeanor, and being convicted thereof, shall be liable, at the Discretion of the Court, to be transported beyond Seas for Seven Years, or to be imprisoned and kept to hard Labour in the Common Gaol or House of Correction for any Term not exceeding Two Years; and in *Scotland*, whenever any Person shall so offend, he shall be liable to be punished in like Manner.

III Power to issue a Warrant for Apprehension of Offenders.

And be it further enacted, That where any Person shall be charged on the Oath of a credible Witness, or in *Scotland* on the Application of the Procurator Fiscal of Court, before any Justice of the Peace, with any Offence punishable upon summary Conviction by virtue of this Act, the Justice may issue his Warrant for apprehending such Person, and bringing him before Two Justices of the Peace, to be dealt with according to Law.

Status: This is the original version (as it was originally enacted).

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 ease of the Dismissal of the Appeal, or the Affirmance of the Conviction, shall order and adjudge the Offender to be dealt with and punished according to the Conviction, and to pay such Costs as shall be awarded ; and shall, if necessary, issue Process for enforcing such Judgment

VII No Certiorari, &c.

And be it further enacted, That no such Conviction, or Adjudication made on Appeal therefrom, shall be quashed for "Want of Form, or be removed by Certiorari, or otherwise, into any of His Majesty's Superior Courts of Record, or in *Scotland* by Advocation or Suspension into any Superior Court; and no Warrant of Commitment shall be held void by reason of any Defect therein, provided it be therein alleged that the Party has been convicted, and there be a good and valid Conviction to sustain the same.

VIII Convictions to be returned to the Quarter Sessions and registered, and may be given in Evidence.

And be it enacted, That on every Conviction under this Act for a First or Second Offence the convicting Justices shall return the same to the next Quarter Sessions for the County, Riding, Division, City, or Place wherein such Offence shall have been committed; and the Record of such Conviction, or any Copy thereof, shall be Evidence in any Prosecution to be instituted against the Party thereby convicted for a Second or Third Offence; and the Clerk of the Peace shall immediately on such Return make or cause to be made a Memorandum of such Conviction in a Register to be kept by him of the Names and Places of Abode of the Persons so convicted, and shall state whether such Conviction be the First or Second Conviction of the offending Party.

IX If Persons to the Number of Three, being armed, enter any Land for the Purpose of taking or destroying Game, &c. they shall be deemed guilty of a Misdemeanor.

And be it enacted, That if any Persons, to the Number of Three or more together, shall by Night unlawfully enter or be in any Land, whether open or inclosed, for the Purpose of taking or destroying Game or Rabbits, any of such Persons being armed with any Gun, Crossbow, Fire Arms, Bludgeon, or any other offensive Weapon, each and every of such Persons shall be guilty of a Misdemeanor, and being convicted thereof before the Justices of Gaol Delivery, or of the Court of Great Sessions of the County or Place in which the Offence shall be committed, shall be liable, at the Discretion of the Court, to be transported beyond Seas for any Term not exceeding Fourteen Years nor less than Seven Years, or to be imprisoned and kept to hard Labour for any Term not exceeding Three Years; and in *Scotland* any Persons so offending shall be liable to be punished in like Manner.

X Jurisdiction of Sheriffs in Scotland. Proving of Convictions.

And be it enacted, That in *Scotland* the Sheriff of the County within which the Offence shall have been committed shall have a cumulative Jurisdiction with the Justices of the Peace in regard to the same ; and the Conviction in *Scotland* may be proved in the same Manner as a Conviction in any other Case according to the Law of *Scotland*.

XI Third Offences, &c. to be tried in certain Courts.

And be it enacted, That in all Cases in *Scotland* of a Third Offence, or in other Cases in *Scotland* where a Sentence of Transportation may, by the Provisions of this Act, be pronounced, the Offender shall be tried before the High Court or Circuit Court of Justiciary.

XII What Time shall be considered Night.

Provided always, and be it enacted, That for the Purposes of this Act the Night shall be considered and is hereby declared to commence at the Expiration of the first Hour after Sunset, and to conclude at the Beginning of the last Hour before Sunrise.

XIII What shall be deemed Game.

And be it enacted, That for the Purposes of this Act the Word " Game " shall be deemed to include Hares, Pheasants, Partridges, Grouse, Heath or Moor Game, Black Game, and Bustards.