

IN THE SUPREME COURT OF BRITISH COLUMBIA.

Before Chief Justice Hunter.

Victoria, B. C.

27th April, 1915.

FITZGERALD

v.

EDWARD JIM.

APPEAL ON STATED CASE FROM MAGISTRATE JAY.

Mr. W. J. Taylor, K. C., appearing for the Accused.

Mr. H. A. Maclean, K. C., appearing from the Crown.

J U D G M E N T.

In my opinion, this conviction must be quashed. The facts are not in dispute; the central fact being that the Defendant charged with an infraction of the Game Act was an Indian who killed a two-year-old buck upon a reserve upon which he was entitled to live, and was using the meat for his household use. The question at once arises as to whether the Indian is within the scope of the prohibitions of the Provincial Game Act. In my opinion he is not. By the Constitutional Act, that is to say, by subsection 24 of Sec. 91, Indians and lands reserved for the Indians are reserved for the exclusive jurisdiction of the Dominion Parliament. The Dominion Parliament has enacted a lengthy act known as the Indian Act. Many provisions are there to be found in connection with the management of