

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
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ERRATA:

**The following two leaves are
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

ERRORS.

ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

ERROR IN THE COMMISSIONER’S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

ERRORS IN THE MARGINAL REFERENCES.

- Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”
- “ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”
- “ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”
- “ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”
- “ “ § 70.—Erase “*R. S.*, c. 2, § 66.”
- “ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”
“*See c. 30*, § 15” should read “*See c. 30*, § 16.”
- “ “ § 14.—Supply “*See c. 18*, § 75.”
- “ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”
- “ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”
- “ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”
- “ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”
- “ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”
- “ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”
- “ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”
- “ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”
- “ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”
- “ 183, § 5.—“*See § 93*, ¶ 6” should read “*See § 93*, ¶ v.”
- “ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”
- “ 209, § 1.—Supply “1880, c. 215.”
- “ 210, § 7.—Supply “1880, c. 215.”
- “ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”
- “ 270, § 16.—Supply “1880, c. 215.”
- “ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”
- “ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”
- “ 374, § 23.—“*See § 17*” should read “1880, c. 234, § 1.”
- “ 384, § 74.—Add “1883, c. 138, § 3.”
“1883, c. 144, § 4.”
- “ 506, § 1.—Supply “*See 1880*, c. 215.”
- “ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”
- “ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”
- “ 773, § 42.—Supply “1883, c. 198, § 2.”
- “ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”
- “ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”
“*R. S.*, c. 115, § 1.” }
- “ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."
 " " § 9.—Erase "60 *Me.*, 533."
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."
 " 728, § 12.—Erase "68 *Me.*, 30."
 " 750, § 5.—Erase "20 *Me.*, 325."
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."
 " 885, § 1.—Erase "62 *Me.*, 285."
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

CHAPTER 30.

MISCHIEVOUS DOGS, WOLVES AND BEARS; MOOSE, DEER, CARIBOU,
AND OTHER WILD GAME.

MISCHIEVOUS DOGS.

- SEC. 1. Towns may pass by-laws relating to dogs. Owners liable for double damages.
2. Dogs assaulting a person, or killing domestic animals, may be killed.
3. Penalty for not confining or killing dangerous dogs, after complaint and notice, how appropriated. Dog again at large, may be killed.
4. Owner of dog assaulting a person, or killing animals after notice, liable to treble damages.

WOLVES AND BEARS.

- SEC. 5. Bounty on wolves and bears to be paid from town treasury.
6. Bounty not to be paid until skins are exhibited and sworn certificate delivered to treasurer. Treasurer to burn nose and ears, pay bounty, take receipt, and make sworn certificate to treasurer of state.
7. Certificates and receipts to be sent to treasurer of state, laid before governor and council, allowed, and paid to towns.
8. Forms of certificates, receipts and oaths.

MOOSE, DEER AND CARIBOU.

- SEC. 9. Penalty for killing or hunting moose with dogs at any time, and for killing or hunting moose between January first and October first.
10. Similar close time for deer and caribou. Dogs so employed may be killed.
11. Possession of any part of carcass or hide, presumptive evidence. Same forfeited to prosecutor.
12. Killing of more than a certain quantity of moose, caribou, and deer at any time, forbidden. Possession, evidence of guilt.
13. Transportation of carcass and hide during close time, prohibited.
14. Game seized, may be returned to owner on giving bond; condition of bond.
15. Appointment of county moose and game wardens; tenure of office; deputies and their bonds. Duty to enforce law, and make annual returns. Penalties for not making returns, how proved, recovered and appropriated.
16. Town wardens have concurrent jurisdiction, and must make annual returns. Wardens and deputies may require aid as sheriffs.
17. Sheriffs and other officers have powers of game wardens.
18. Penalties how recovered and appropriated. If wardens do not prosecute within fourteen days, any one may.
19. Secretary of state to communicate to legislature the doings of game wardens and deputies under the ten preceding sections.

MINK, BEAVER, SABLE, OTTER, FISHER, MUSKRAT AND BIRDS.

- SEC. 20. Destruction of minks, beavers, sables, otter, fisher and muskrats prohibited between May first and October fifteenth.
21. Various close times for different birds.
22. Destruction of certain birds, restricted. Proviso.
23. Insectivorous birds, protected. Penalty.
24. Destruction of eggs, nests, and young, prohibited. Penalty.
25. Transportation of birds in close time, forbidden. Penalty.
26. Penalties of six preceding sections, how recovered. Full costs. Fines, how disposed of.
27. Sunday is a close time for game and birds. Existing penalties for desecration of Sunday are unaffected.
28. Powers and duties of fish commissioners and wardens extended to game.

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MISCHIEVOUS DOGS.

Towns may pass by-laws. —owners liable for double damages. R.S., c. 30, § 1. See § 10; c. 3, § 59, ¶ 4. 62 Me., 279. 74 Me., 488.

When dogs may be killed without notice. R.S., c. 30, § 2.

Penalty for not confining or killing dangerous dogs, after notice. R.S., c. 30, § 3.

Owner liable to treble damages after notice. R.S., c. 30, § 4.

Bounty on wolves and bears. R.S., c. 30, § 5.

Claimant must apply within ten days and exhibit entire skin. R.S., c. 30, § 6. —certificate on oath required.

—town treasurer to destroy ears and nose.

—town treasurer's certificate to state treasurer.

Certificates to be laid before governor and council. 1876, c. 136.

SEC. 1. Towns may pass by-laws to regulate the going at large of dogs therein. When a dog does damage to a person or his property, his owner or keeper, and also the parent, guardian, master, or mistress, of any minor or servant, who owns or keeps such dog, forfeits to the person injured double the amount of the damage done; to be recovered by action of trespass.

SEC. 2. Any person may lawfully kill a dog, that suddenly assaults him or another person when peaceably walking or riding, or is found worrying, wounding, or killing any domestic animal, outside of the inclosure or immediate care of his owner.

SEC. 3. Whoever is so assaulted, or finds a dog strolling out of the inclosure or immediate care of his master, may, within forty-eight hours thereafter, make oath before a justice of the peace that he really suspects such dog to be dangerous or mischievous, and shall notify his master by giving him a copy of said oath, signed by the justice; and if the master neglects for twenty-four hours thereafter, to confine or kill such dog, he forfeits five dollars to any prosecutor; and if such dog is again at large out of the care of his master, any person may lawfully kill him.

SEC. 4. If a dog, after notice so given, wounds any person by a sudden assault as aforesaid, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs.

WOLVES AND BEARS.

SEC. 5. A bounty of five dollars for every wolf and bear killed in any town shall be paid by the treasurer thereof to the person killing it, upon compliance with the following conditions.

SEC. 6. No bounty shall be paid unless the claimant, within ten days after he has killed such animal, or has returned from the hunting in which he killed it, exhibits to the town treasurer the entire skin thereof with the ears and nose thereon in as perfect a state as when killed, except natural decay, and signs and makes oath to a certificate, which oath said treasurer may administer, in which he shall state that he killed such animal, and the time and place, showing it to be within the state; and the treasurer shall thereupon cut off the whole of the ears and of the nose from such skin and entirely destroy them by burning; then he shall pay the bounty and take the claimant's receipt therefor upon the same paper with such certificate. The town treasurer shall immediately make upon the same paper a certificate under oath addressed to the treasurer of state, that he first cut off the ears and nose from the skin of such animal and destroyed them by burning, and then paid said bounty to the claimant.

SEC. 7. Said certificates and receipts shall annually, in December, be transmitted to the treasurer of state, and be by him laid before the governor and council as early as convenient; and when allowed by them shall be paid by the treasurer of state to such towns.

SEC. 8. The certificate shall be in the following form:

Claimant's Certificate.

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"To the treasurer of ——. I hereby certify that on the — day of —, A. D., 18—, at —, in the State of Maine, I killed the —, the skin of which I now exhibit to you; and I claim the bounty allowed by law for killing the same.

Form of claimant's certificate. R.S., c. 30, § 8.

Dated at —, this — day of —, A. D., 18—.

—, *Claimant.*

Subscribed and sworn to before me the day and year aforesaid.

—, Treasurer of —."

Claimant's Receipt.

"On this — day of —, A. D., 18—, I received of —, treasurer of —, — dollars, being the bounty allowed by law for killing the — described in the above certificate.

—form of claimant's receipt.

—, *Claimant.*"

Treasurer's Certificate.

"I hereby certify that as required by law, I first cut off the whole of the ears and nose from the skin of the — described in the foregoing certificate and destroyed the same by burning, and then paid to said — the bounty for which I have taken his receipt as above.

—form of treasurer's certificate.

Dated at —, this — day of —, A. D., 18—.

—, Treasurer of —.

Subscribed and sworn to before me the day and year aforesaid.

—, *Justice of the Peace.*"

MOOSE, DEER AND CARIBOU.

SEC. 9. Whoever hunts, kills or destroys, with dogs, any moose, forfeits one hundred dollars for every moose so hunted, killed or destroyed; and no person shall, between the first days of January and October, in any manner hunt, kill or destroy any moose under the same penalty.

Hunting moose with dogs, how punished. 1883, c. 142, § 1. —hunting, at all, when prohibited.

SEC. 10. Whoever hunts, kills or destroys, with dogs, any deer or caribou, forfeits forty dollars for every such deer or caribou, so hunted, killed or destroyed; and no person shall, between the first days of January and October, in any manner hunt, kill or destroy any deer or caribou, under the same penalty. Any person may lawfully kill any dog found hunting moose, deer or caribou. Any person owning or having in possession dogs for the purpose of hunting moose, deer or caribou, or that are used for such hunting, forfeits not less than twenty nor more than one hundred dollars.

Same prohibitions as to deer and caribou. 1883, c. 142, § 2. —dog, hunting moose, deer or caribou, may be killed. —penalty for keeping such dog. 1883, c. 155, § 2.

SEC. 11. Whoever has in his possession the carcass or hide, of any such animal, or any part thereof, between the first days of January and October, shall be deemed to have hunted and killed the same contrary to law, and be liable to the penalties aforesaid; but he shall not be precluded from producing proof in defence. In case of conviction, such

Possession of any part of such animal, presumptive evidence of guilt. 1878, c. 50, § 5.

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—carcass and hide, forfeited. 1876, c. 61.
 —warden and deputies, powers of.

Killing of more than a certain number of moose, caribou and deer at any time, forbidden. 1883, c. 153, § 1.

—possession, evidence of guilt.

Transportation of carcass, &c., during close time, prohibited. 1878, c. 50, § 6.
 Game seized, may be restored to owner on bond. 1883, c. 158.

—condition of bond.

See c. 40, § 59.

Moose and game wardens to be appointed. 1878, c. 50, § 7.
 —term.
 —deputies.
 —duties.

—deputies to account, annually.

—wardens to account to secretary of state annually.
 —penalty for neglect.

—county attorney to be notified of delinquency.
 —shall prosecute.

—evidence.

Town moose and game

carcass or hide, or any part thereof, so found in his possession, shall be decreed by the court forfeited to the prosecutor. And the warden, or either of his deputies as named in section eighteen, may search for such carcass or hide, or any part thereof, subject to sections twelve, thirteen and fourteen of chapter one hundred and thirty-two, but the warrant may be issued on complaint of said warden or either of his deputies.

SEC. 12. Whoever kills, destroys, or has in possession between the first days of October and January, more than one moose, two caribou or three deer, forfeits one hundred dollars for every moose and forty dollars for every caribou or deer killed, destroyed or in possession in excess of said number, and all such moose, caribou or deer or the carcasses or parts thereof are forfeited to the prosecutor. Whoever has in possession, except alive, more than the aforesaid number of moose, deer or caribou, or parts thereof, shall be deemed to have killed or destroyed them in violation of law.

SEC. 13. Whoever carries or transports from place to place the carcass or hide, of any such animal, or any part thereof, during the period in which the killing of such animal is prohibited, forfeits forty dollars.

SEC. 14. Any person whose game has been seized for violation of any game law, shall have it returned to him on giving to the officer a bond with sufficient sureties, residents of the state, in double the amount of the fine for such violation; conditioned, that if convicted of such violation he will within thirty days thereafter pay such fine and costs. If he neglects or refuses to give such bond and take the game, so seized, he shall have no action against the officer for such seizure or for the loss of the game seized.

SEC. 15. The governor, with the advice and consent of council, shall appoint one moose and game warden for each county, to hold his office for four years, unless sooner removed, each of whom may appoint in writing one or more deputies, and require suitable bonds for the faithful performance of their duties, and the payment to him of his fees, and said wardens and their deputies in their several counties, shall faithfully enforce the provisions of this chapter. Each deputy shall annually, by the first day of December, render to his principal a sworn account of all the penalties by him enforced during the preceding year, and shall pay to him one tenth part of the net proceeds thereof. Each county warden shall annually, in January, render to the secretary of state a sworn account of all the penalties enforced by himself or returned to him by his deputies, for the year ending on the first day of December. The penalty for neglect, shall be for a warden fifty, and for a deputy twenty-five dollars; and the warden shall immediately give notice to the county attorney of such neglect of his deputy, and the secretary of state shall notify such county attorney of every such neglect of the warden; the county attorney shall prosecute for every such neglect of which he has notice; and the penalties so recovered shall be for the use of the county. In such prosecutions the certificate of the secretary of state is sufficient evidence of the fact of such neglect.

SEC. 16. The municipal officers of any town may insert in the war-

rant for their annual meeting an article for the choice of a town moose and game warden, who, in his town and everywhere within twelve miles beyond its bounds, shall have concurrent jurisdiction with, and the same powers and rights, as the county moose warden and his deputies; and he shall make a like return to the secretary of state, under a penalty of twenty-five dollars, to be proved, recovered, and appropriated in the same way. Each of said officers has the same authority to require aid in the execution of his office as sheriffs and their deputies have.

SEC. 17. Sheriffs, deputy sheriffs, police officers and constables, are vested with all the powers of game wardens and their deputies, and shall receive for their services the same fees as are prescribed for sheriffs and their deputies for similar services.

SEC. 18. County wardens, their deputies, or town wardens, may recover the penalties for unlawfully hunting and killing moose, deer, and caribou, in an action on the case in their own names, or by complaint or indictment in the name of the State. After fourteen days from the commission of any offence hereinbefore named, any person may prosecute by action, complaint or indictment unless such warden or deputy has prosecuted therefor, and such prosecution may be commenced in any county in which such animal is killed or hunted, or into which its carcass or hide, or any portion thereof, is carried.

SEC. 19. The secretary of state shall, during the first month of each regular session, communicate to the legislature, what has been done in execution of the ten preceding sections according to the returns received:

MINK, BEAVER, SABLE, OTTER, FISHER, MUSKRAT AND BIRDS.

SEC. 20. Whoever, between the first day of May and the fifteenth day of October, destroys any mink, beaver, sable, otter, fisher or muskrat, forfeits ten dollars for each animal so destroyed, to be recovered on complaint.

SEC. 21. Whoever kills or has in his possession, except alive, or exposes for sale, any wood duck, dusky duck, commonly called black duck, or other sea duck, between the first days of May and September; or kills, sells, or has in possession, except alive, any ruffed grouse, commonly called partridge, or woodcock, between the first days of December and September following; or kills, sells, or has in possession, except alive, any quail or pinnated grouse, commonly called prairie chicken, between the first days of January and September, or plover, between the first days of May and August, forfeits not less than five nor more than ten dollars for each bird so killed, had in possession, or exposed for sale. And no person shall kill, expose for sale or have in possession, except alive, any woodcock or ruffed grouse or partridge, during September, October or November, except for consumption as food within the state, under the same penalty.

SEC. 22. Whoever at any time, or in any place, with any trap, net, snare, device or contrivance, other than the usual method of sporting with fire-arms, takes wild duck of any variety, quail, grouse, partridge or woodcock, forfeits five dollars for each bird so taken. But this sec-

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wardens may be elected. 1878, c. 50, § 8. —jurisdiction.

—shall make return to secretary of state. —penalty. —may require aid.

Sheriffs and other officers have powers of wardens; fees. 1883, c. 141.

How penalties may be recovered. 1878, c. 50, § 9.

—any person may prosecute, if officers neglect. 1883, c. 130.

—action, where to be commenced.

Sec'y of state to report to legislature in January. 1878, c. 50, § 10. 1880, c. 289, §§ 30, 38.

Destruction of certain wild animals between May 1 and Oct. 15; penalty for. 1878, c. 50, § 11. 1883, c. 130. Certain birds not to be killed between May 1 and Sep. 1. 1879, c. 127.

—others between Dec. 1 and Sept. 1; and between May 1 and Aug. 1.

—woodcock and partridges. 1876, c. 98, § 1.

Destruction of certain birds, prohibited. 1878, c. 50, § 13. —penalty.

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—proviso.
1878, c. 50, § 19.
Insectivorous
birds
protected.
1883, c. 145.

—penalty.

Destruction
of nests,
eggs, &c.,
prohibited.
1878, c. 50, § 15.
—exception.

—penalty.

Transporta-
tion of birds
during cer-
tain seasons,
prohibited.
1878, c. 50, § 16.

Penalties,
how
recovered.
1878, c. 50, § 18.

—full costs.

—fines, how
disposed of.
1883, c. 130.
See c. 40, § 77.

Sunday is a
close time for
game and
birds.
1883, c. 157.

—penalties.

Powers and
duties of
fish commis-
sioners and
wardens,
extended
to game.
1880, c. 208, § 1.
See c. 40, § 38.

tion and the preceding do not apply to the shooting of ducks on the sea coast.

SEC. 23. Whoever kills or has in his possession, except alive, any birds commonly known as larks, robins, swallows, sparrows or orioles, or other insectivorous birds, crows and hawks excepted, forfeits not less than one dollar, nor more than five dollars, for each such bird killed, and the possession by any person of such dead bird, is prima facie evidence that he killed such bird.

SEC. 24. Whoever at any time wantonly takes or destroys the nest, eggs, or unfledged young of any wild bird, except crows, hawks and owls, or takes any eggs or young from such nests, except for the purpose of preserving the same as specimens, or of rearing said young alive, forfeits not less than one dollar nor more than ten dollars for each nest, egg, or young so taken or destroyed.

SEC. 25. Whoever carries or transports from place to place, any of the birds named herein, during the period in which the killing of such bird is prohibited, forfeits five dollars for each bird so carried or transported.

SEC. 26. All penalties imposed by the six preceding sections may be recovered by action of debt, or by complaint or indictment in the name of the State, by any warden or his deputies, or any other person, in any county in which such offence is committed or the accused resides; and in all actions therefor in the supreme judicial or superior courts, if the plaintiff prevails, he recovers full costs without regard to the amount recovered. All fines and penalties recovered for violations of the seventeen preceding sections, except sections fifteen and sixteen, shall be paid one half to the complainant and one half to any game and fish protective society or other sportsmen's association organized under the laws of Maine, and located in the county where said fines and penalties are recovered; *provided*, that said society or association expends the same in the propagation and cultivation of trout and salmon for the fresh water lakes and ponds of the state, under the direction and supervision of the fish commissioners. If more than one such society or association is located in such county, said commissioners shall designate to which society the money shall be paid, or they may cause the same to be divided between them. If there is no such society or association in said county, the commissioners shall appropriate the same to such society as aforesaid as they deem proper.

SEC. 27. Sunday is a close time, on which it is not lawful to hunt, kill or destroy game or birds of any kind, under the penalties imposed therefor during other close times; but the penalties already imposed for violation of the Sunday laws are not repealed or diminished.

SEC. 28. The powers and duties of the commissioners of fisheries, and wardens, extend to all matters pertaining to game, and they have the same powers to enforce laws pertaining thereto as they have in enforcing the laws relating to the fisheries.