

# MAINE STATE LEGISLATURE

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NINETY-FOURTH LEGISLATURE

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Legislative Document

No. 830

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S. P. 425

In Senate, February 17, 1949

Referred to the Committee on Inland Fisheries and Game. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Ela of Somerset.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-NINE

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AN ACT Relative to Search and Seizure of Game.

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Be it enacted by the People of the State of Maine, as follows:

**R. S., c. 33, § 107, amended.** Section 107 of chapter 33 of the revised statutes, as revised, is hereby amended to read as follows:

**‘Sec. 107. Seizure and disposition of game and equipment for violation of law.** All birds, fish or animals, or parts thereof, hunted, bought, sold, carried, transported, or **firearms, lights, motor vehicles used** or found in possession of any person in violation of the provisions of this chapter, or equipment **used or possessed** in violation of the provisions of this chapter, shall be contraband and shall be forfeited to the state. And in all cases where a warden may find birds, fish or animals, or parts thereof, **firearms, lights, motor vehicles used** or equipment possessed in violation of the provisions of this chapter he may seize the same without a warrant, and keep them for a reasonable time. The officer who made such seizure, may within reasonable time file with a magistrate a libel against such birds, fish or animals, or parts thereof, **firearms, lights, motor vehicles used** or any equipment possessed in violation of the provisions of this chapter (except that articles of less than \$10 in value shall not be libeled unless reasonable doubt exists as to the ownership thereof), setting forth their seizure by him, des-

cribing such birds, fish or animals, or parts thereof, **firearms, light, motor vehicles used** or equipment and that they were hunted, taken, caught, killed, **used** or had in possession in violation of the provisions of this chapter, and pray for a decree of forfeiture thereof, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of the same, to all persons interested, citing them to appear at the time and place appointed and show cause why said birds, fish or animals, or parts thereof, **firearms, lights, motor vehicles used** or equipment possessed should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in 2 conspicuous places in the town or place where such birds, fish or animals, or parts thereof, **firearms, lights, motor vehicles used** or equipment possessed were seized, or in such place or places as is ordered by the magistrate, 10 days at least before the day to which said libel is returnable. Copies shall be served on common carriers.

In case the magistrate finds that the birds, fish or animals, or any parts thereof, seized, will be unsuitable for food (or other use) at the day to which said libel is returnable, he shall order the officer making the seizure to dispose of the same; and the officer disposing of the same shall, in case of sale, hold the proceeds of said sale subject to order of the court for decision as to the right of the claimant, if any appear, to said birds, fish or animals, or parts thereof. If the magistrate finds the claimant, if any appear, is not entitled to said birds, fish or animals, or parts thereof, the officer making such seizure shall turn over to the magistrate the proceeds of such sale, and such magistrate shall forward the proceeds thereof to the commissioner in the same manner as is provided by section 110.

If no claimant appears, such magistrate shall, on proof of notice as aforesaid, declare the same forfeited to the state. If any person appears and claims such articles, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with the magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, the time and place of the seizure and the name of the officer by whom the same were seized, and in it must declare that they were not **used or** had in possession in violation of the provisions of this chapter, with his knowledge or consent, and also state his business and place of residence, and shall sign and make oath to the same before said magistrate. If any person so makes claim, he shall be admitted as a party to the ~~process~~ **process**; and the magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellant or claimant. If the magistrate is, upon the hearing, satisfied that said birds, fish or ani-

mals, or parts thereof, **firearms, lights, motor vehicles used** or any equipment possessed were not **used** or had in possession in violation of the provisions of this chapter, and that the claimant is entitled to the custody of any part thereof, he shall give him an order in writing, directed to the officer having the same in custody commanding him to deliver to said claimant the articles, or proceeds derived from the sale of the same, to which he is so found to be entitled, within 48 hours after demand. If the magistrate finds the claimant entitled to no part of said article so seized, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said articles forfeited to the state. The claimant may appeal and shall recognize with sureties as on appeals in civil causes from a magistrate.

The forms herein set forth, with such changes as adapt them for use in cities, towns and plantations, are sufficient in law, for all cases arising under the foregoing provisions, to which they purport to be adapted; and the costs to be taxed and allowed for libel, shall be 50c; for entering the same, 30c; for trying the same, \$1; for a monition, 50c; for posting notices and return, \$1; order to restore or deliver, 25c; executing the order, 50c; and 10c per mile for all necessary travel.

**FORM OF LIBEL**

State of Maine

County of.....ss. To.....  
a trial justice, judge or recorder of a municipal court, in and for said county:

The libel of....., of.....  
shows that he has seized certain birds, fish or animals, or parts thereof, **firearms, lights, motor vehicles used** or equipment possessed in violation of the provisions of chapter 33 of the revised statutes, as ~~revised~~ **amended**, described as follows: .....

.....  
.....

because the same were hunted, taken, caught, killed, **used** or had in possession in violation of the provisions of this chapter, as follows:.....

.....  
.....

which said articles were possessed at.....in said county of ..... Wherefore he pray for decree of forfeiture of said articles, according to the provisions of law in such case made and provided.

Dated at....., in said county, this.....day of ..... , in the year of our Lord nineteen hundred.....

(Signed).....  
Inland Fish and Game Warden

**FORM OF MONITION AND NOTICE**

**STATE OF MAINE**

L. S.

County of....., ss.

To all persons interested in.....  
.....  
.....  
.....

The libel of..... hereunto annexed, this day filed with me....., esquire, a trial justice, judge or recorder of a municipal court, in and for said county, shows that he has seized said articles because..... and prays for a decree of forfeiture of the same according to the provisions of law in such case made and provided.

You are, therefore, hereby notified thereof, that you may appear before me, the said justice, judge or recorder, at.....in..... in said county, on the.....day of.....A. D. 19....at .....o'clock in the.....noon and then and there show cause why said articles should be forfeited, and that notice hereof be given to all persons interested by causing a true and attested copy of this libel and monition to be posted in.....and..... two conspicuous places in the town of.....at least ten day before the return day hereof.

Witness:....., esquire  
on the.....day of.....19.....

.....  
Trial Justice, Judge ~~of~~ or Recorder

A true copy. Attest:

.....  
Inland Fish and Game Warden

STATE OF MAINE

.....ss. .... A. D. 19.....

I have this day made service of the within libel and monition, by posting up true and attested copies of the same, in two conspicuous places to wit: one.....and one..... in.....

Posting notice \$1.00

..... Inland Fish and Game Warden

Travel miles

Total \$

STATE OF MAINE

(L. S.)

.....ss.

To..... one of the..... of the .....

WHEREAS it appears that due notice was given to all parties interested in the birds, fish, game, wild or fur-bearing animals, or parts thereof, **fire-arms, lights, motor vehicles** or equipment described in the within libel of .....to appear before.....esquire, a trial justice, judge of the municipal court, within and for the county of .....at.....in.....on the..... day of..... A. D. 19.....at.....o'clock in the.....noon, and show cause why said..... should not be declared forfeited. And no person appearing to claim the same, said.....are declared forfeited.

And.....of.....did appear and claim said.....and after hearing all the evidence I order said.....returned to said claimant. The same are declared forfeited and you are hereby ordered to turn the same over to the Commissioner of Inland Fisheries and Game.

Witness,.....esquire, said trial justice, judge of the municipal court of the county of.....this..... day of..... A. D. 19.....

..... Trial Justice  
Judge of Municipal Court

.....ss. .... A. D.

Pursuant to the above order to me directed, I have turned over the within

described..... to .....  
the Commissioner of Inland Fisheries and Game.

.....  
Inland Fish and Game Warden'