

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

A. To pay the bureau personnel and all office and administrative costs of the bureau;

B. Each fiscal year any amount in the watercraft fund, which in the discretion of the 2 bureau heads is not needed for the bureau personnel, office and administrative expenses, is to be paid over to the department of inland fisheries and game and the department of sea and shore fisheries in proportion to all revenues paid into the watercraft fund under this chapter from inland waters and coastal waters respectively during the fiscal year last completed. The amounts thus paid the departments are to help defray the costs of the enforcement of this chapter. (1963, c. 354, § 1.)

Sec. 14. Penalties.—Whoever violates any provisions of this chapter or any regulation adopted under authority of this chapter shall be guilty of a misdemeanor and, if no specific penalty is provided for the particular offense, shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 90 days, or by both. (1963, c. 354, § 1.)

Sec. 15. Certificates of bureau heads admissible in evidence.—A certificate signed by either bureau head, stating what the records of the bureau show on any given matter are admissible in evidence in all courts of this state to prove what the records of the bureau are on that matter.

I. Certificate prima facie evidence person not the holder of a certificate of number, license or permit. A certificate signed by either of the bureau heads, stating that the records of the bureau do not show that a particular person on a stated date held a certificate of number, a license or permit issued under this chapter, as the case may be, is admissible in evidence in all courts of this state and is prima facie evidence that the particular person named in the certificate did not hold a certificate of number, license or permit as specified in the certificate on the date specified in the certificate.

II. Certificate prima facie evidence of certificate, license and permit revocation. A certificate signed by either bureau head stating that the records of the bureau show that a particular person's certificate, license or permit issued under this chapter was under revocation or suspension on a particular stated date is admissible in evidence in all courts of this state and is prima facie evidence that the particular certificate, license or permit stated, on the date stated, of the particular person stated was under suspension or revocation.

III. Regulations not proved by this section. This section does not apply to the proof of bureau regulations. Proof of them by certificate is provided in section 3. (1963, c. 354, § 1.)

Chapter 37.

Inland Fisheries and Game.

Sections 13 to 14-A. Fishways. Dams.

Sections 24- 33. Inland Fish and Game Wardens.

Sections 39 to 67-A. Fishing. Open Seasons. Size and Weight of Fish. Regulations in Lumber Camps. Implements and Devices Prohibited. Ice Fishing. Transportation of Fish. Stocking of Lakes and Streams. Cultivation of Fish. Jurisdiction of Commissioner. Operation of Boats on Inland Waters. Restricting the Use of Power Boats.

Sections 73- 84. Hunting. Revocation of Hunting and Fishing Licenses. Lob-

ster Traps. Intoxication. Sunday Hunting. Night Hunting, Etc. Silencers. Automatic Firearms. Importing of Wild Birds or Animals.

Sections 85- 89. Hunting of Game Birds. Hunting Waterfowl.

Sections 90-107. Hunting of Moose, Caribou, Deer and Other Wild Animals. Use of Airplane Prohibited. Crop and Orchard Damage. Motor Vehicle Damage. Dogs Running at Large. Illegal Devices for Hunters and Fishermen. Dogs May Be Killed. Transportation and Sale of Deer. Transportation of Fish, Game and Fur-Bearing Animals. Registration Stations for Bear Killed. Closed Season on Rabbits, etc.

Section 150-A. Game Management Area.

Section 152. Liability of Landowners.

Commissioner and Advisory Council. Administration.

Rules and Regulations. Hearings.

Sec. 1. Commissioner and deputy commissioner; appointment; term; reports; salary.—A commissioner of inland fisheries and game, as heretofore appointed by the governor with the advice and consent of the council and hereinafter in this chapter called the “commissioner,” shall hold office for 3 years and shall serve until his successor is appointed and qualified. The commissioner shall appoint, subject to the provisions of the personnel law, a deputy commissioner of inland fisheries and game. The commissioner shall make a report to the governor on or before the 31st day of December of each year for the year ending June 30th prior thereto.

The commissioner shall receive an annual salary of \$10,000 and he shall also receive all necessary traveling expenses. (R. S. c. 33. 1945, c. 366, § 1; c. 374, § 2. 1951, c. 412, § 11. 1955, c. 473, § 13. 1957, c. 52; c. 418, § 14. 1959, c. 333, § 1; c. 361, § 11.)

Effect of amendments. — The 1955 amendment increased the salary of the commissioner. The first 1957 amendment rewrote the first paragraph, and the second 1957 amendment, effective July 1, 1957, increased the salary of the commissioner from \$8,000 to \$9,000 in the second paragraph.

This section was amended twice by the 1959 legislature. The first 1959 amendment substituted “31st day of December” for “30th day of June” after the word “the” and before the word “of”, and “June 30th” for “December 31st” after the word “ending” and before the word “prior” in the last sentence of the first paragraph. The second 1959 amendment substituted “\$10,000” for “\$9,000” in the second paragraph.

Effective date. — P. L. 1959, c. 361, amending this section provided in section 14 thereof as follows: “The provisions of this act shall become effective for the week ending August 22, 1959.”

Office of fish and game commissioner within constitutional prohibition.—The office of fish and game commissioner is a state office and, so far as any compensation is affixed by law to that office, is an “office of profit under this State”, within § 11 of article IV of the Maine Constitution, prohibiting a person holding such office from having a seat in either house of the legislature during his continuance in office. Opinion of Justices, 95 Me. 564, 51 A. 224 (op. of Emery, Whitehouse, Peabody, JJ.).

Sec. 2. Duties and office; sale of confiscated arms and ammunition.

Whenever the entire state is closed to hunting by proclamation of the governor during the open season on deer, the commissioner with the consent of the governor and council is authorized to extend the open season for deer hunting for a period not to exceed the number of days lost. (R. S. c. 33. 1945, c. 27; c. 374, § 2. 1949, c. 179. 1955, c. 290, § 1.)

Effect of amendment.—The 1955 amendment substituted, at the end of the last paragraph, the words “not to exceed the number of days lost” for the words “of

not more than 2 weeks, which period shall not total more than $\frac{2}{3}$ of the time lost." As the rest of the section was not changed by the amendment, only the last paragraph is set out.

Quoted in *Cobb v. Bolsters Mills Improvement Society*, 158 Me. 199, 182 A. (2d) 1.

Sec. 3. Boundary waters with New Hampshire and Canada.—The commissioner, with the consent of the advisory council, shall have the authority to prescribe bag limits, size limits, open or closed seasons and methods of taking game and other fish from the inland boundary waters between the states of Maine and New Hampshire and provinces of Canada. These rules and regulations shall be those that are mutually agreed upon by the commissioners of Maine and New Hampshire and the Canadian fishery authorities. (1953, c. 394, § 1. 195, c. 290, § 2.)

Effect of amendment.—The 1955 amendment made the section applicable to boundary waters with New Hampshire.

Sec. 4. Advisory council; appointment; terms; salary; expenses; meetings.—An advisory council, as heretofore appointed by the governor with the advice and consent of the council, shall consist of 7 members, chosen one from each of the councilor districts. Appointment shall be for the terms of 6 years and until successors are appointed and qualified. Upon the death, resignation or removal from office of any person so appointed, the governor, with the advice and consent of his council, shall appoint a member to serve for the unexpired term. The members of the advisory council shall receive no compensation for their services, but said council shall be allowed actual expenses not to exceed \$2,000 for each fiscal year. The council shall render to the commissioner information and advice concerning the administration of the department. The council shall hold regular meetings with the commissioner or his deputy in December and May of each year, and special meetings at such other times and places within the State as would seem advisable. At the meeting held in May of each year, the council may elect one of its members as chairman and one as vice-chairman. (R. S. c. 33. 1945, c. 374, § 2. 1955, c. 290, § 3. 1963, c. 288.)

Effect of amendments. — The 1955 amendment substituted the words "in December and May of each year" for the words "at the state capitol on the 1st Thursday of January and July, annually"

in the sixth sentence, and the words "in May" for the words "on the 1st Thursday of January" in the seventh sentence.

The 1963 amendment substituted "\$2,000" for "\$500" in the fourth sentence.

Sec. 8. Governor and council to sell property no longer needed.—The governor and council on recommendation of the commissioner may sell and convey on behalf of the state the interests of the state in property taken or acquired by purchase under this chapter and deemed no longer necessary for the purposes hereof. The proceeds from such sales shall be credited to the funds of the department of inland fisheries and game. (1953, c. 178. 1959, c. 333, § 2.)

Effect of amendment.—The 1959 amendment added the last sentence to this section.

Sec. 9. Rules and regulations.—Whenever any existing conditions adversely affect the fish in waters in any part of the state, or whenever changes in existing rules and regulations may be desirable for any reason, the commissioner, with the advice and approval of the advisory council, shall make such regulations as may be deemed advisable, in the manner provided in this section.

Petitions stating the conditions affecting the fish, and the regulations which are desired as a remedy, may be addressed to the commissioner by a majority of the municipal officers or 25 citizens of the municipality in which the waters exist; or if the waters are in unorganized territory, by a majority of the county commis-

sioners in the counties in which said waters exist, or the commissioner may investigate conditions affecting the fish in any waters in any part of the state, and may make such regulations as may be deemed advisable in the manner provided in this section.

All petitions shall be filed in the office of the commissioner not later than the first day of August of each year, together with the list of such changes in regulations as may be recommended by the commissioner. Hearing shall be held on all prospective changes in regulations before September 30th of each year, before the commissioner, or such other officer of the department as the commissioner may designate in his stead, at a date and place to be designated by the commissioner but in the county affected.

Notice of the hearing to be held, the time and place thereof, together with the listing of all proposed changes, shall be by publication once a week, for 2 successive weeks prior to the hearing, in a newspaper having state-wide circulation, and notice of such hearing shall be sent to the clerks of the towns in which the waters are situated and to the county commissioners if such waters are located in whole or in part in the unorganized territory.

After hearing, pursuant to the petitions filed, or the changes in laws recommended by the commissioner, with the advice and approval of the advisory council, the commissioner shall make such regulations as may be deemed necessary. Such regulations shall become effective on January 1st of the year next following the date of the hearing.

The commissioner shall cause the regulations to be reduced to writing and publish the same once a week for 2 successive weeks in a newspaper published in the county where the waters are situated, and which are affected thereby, or if no paper is published there, in a newspaper having state-wide circulation, the last publication being prior to January 1st following the date of the hearing. The commissioner shall file a certified copy of said regulations with the secretary of state and with the clerk of the superior court of the county in which the waters affected are situated.

If unusual conditions should adversely affect any one of the waters in this state, so that the supply of fish in those waters might be depleted by angling, the commissioner may declare an emergency and order a hearing held, at a time and place to be designated by him, and shall cause notice thereof to be published at least 5 days prior to the hearing in a newspaper published in the county where the water is situated, and if no newspaper is published in that county, then the notice shall appear in a newspaper having state-wide circulation. After the hearing, the commissioner may promulgate regulations providing for the times, number, weight and manner in which fish may be taken from such waters. He shall reduce the regulations to writing and provide for the expiration date thereof, and shall cause notice of the same to be published, the regulations to take effect upon the day following the publication thereof. A certified copy of the regulations shall be filed with the secretary of state and with the clerk of the superior court in the county in which the water is situated.

Whoever violates any provision of this section or any rule or regulation issued under this chapter shall be penalized under section 139. (R. S. c. 33, 1945, c. 374, § 2. 1951, c. 317. 1953, c. 394, § 3. 1957, c. 392, § 1; c. 438. 1959, c. 333, § 3. 1963, c. 37; c. 414, § 12-A.)

Effect of amendments.—The first 1957 amendment rewrote this section. The second 1957 amendment made a change in the first paragraph.

The 1959 amendment made a change in the fourth paragraph.

The first 1963 amendment, which became effective on its approval, March 7,

1963, again rewrote this section. The second 1963 amendment added the words "but in the county affected" at the end of the present third paragraph and also added the provisions as to notice of hearing being sent to clerks of towns and county commissioners at the end of the present fourth paragraph.

Fishways. Dams.

Sec. 13. Construction of fishways and repairs thereto; appeals.

If any owner or occupant neglects or refuses to join in proportion to his interest therein in erecting, maintaining, repairing or altering such fishway so ordered and required, the other owners or occupants shall do so and shall have a civil action against such delinquents for their proportion of the expense thereof. If all owners and occupants refuse or neglect to do so, the commissioner may do so and shall have a civil action against all delinquents for their proportion of the expense thereof or the commissioner may petition the superior court, in the county where said dam or other artificial obstruction exists, to enforce any such order or to restrain any violation thereof. Whenever delinquent owners or occupants reside out of the state, said amounts may be recovered as penalties by libel against said dam or obstruction and the land on which it stands, filed in the superior court in the county where said land is located, in the name of the commissioner, such notice to be given of the pendency thereof as the court orders. The court may render judgment therein against said dam, obstruction and lands for said penalties and costs and order a sale thereof to satisfy such judgment and costs, including costs of sale, subject to all said requirements for the erection, maintenance and repair of said fishway.

Any owner or occupant may, within 14 days after any order of the commissioner, appeal to the superior court from any such order. The appellant shall when the appeal is taken include in the complaint a statement setting forth substantially the facts of the case. If any such appeal is denied, full costs may be taxed against the appellant. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 6. 1955, c. 275. 1961, c. 317, § 77.)

Effect of amendments.—The 1955 amendment added that part of the present second sentence of the fifth paragraph appearing after the word "thereof" in line seven.

The 1961 amendment rewrote the fifth and sixth paragraphs of this section.

As the rest of the section was not affected by the amendments, it is not set out.

Contents of order.—An order of the

commissioner for the construction of a fishway should contain a description or plan of the proposed fishway and the conditions of its use in reasonable detail; it should include more than merely an order to build a fishway. *Cobb v. Bolsters Mills Improvement Society*, 158 Me. 199, 182 A. (2d) 1.

Order held insufficient.—See *Cobb v. Bolsters Mills Improvement Society*, 158 Me. 199, 182 A. (2d) 1.

Sec. 13-A. Tampering with, injuring or destroying fishways. Whoever without authority from the commissioner tampers with a fishway, closes a fishway to fish migration, introduces foreign objects into a fishway, or damages or destroys a fishway, shall be punished by a fine of not more than \$100. (1963, c. 279, § 1.)

Sec. 14-A. Tampering with, injuring or destroying dams.—Whoever without authority from the commissioner tampers with any dam owned or operated by the department of inland fisheries and game, opens or closes gates or sluiceways, adds or removes flashboards, or otherwise damages or destroys such dams, shall be punished by a fine of not more than \$100. (1963, c. 279, § 2.)

Fish and Game Culture. State Game Farms.

Wild Animals in Captivity.

Sec. 15. Waters set apart for fish culture; destruction of mink therein; transportation of live game; breeders; fish and game for scientific purposes.—The commissioner, after hearing pursuant to section 9, may set apart for a term not exceeding 10 years any inland waters for the use of the state, in the prosecution of the work of fish culture and scientific research relative to fish. The

order setting apart such waters shall be recorded in the registry of deeds in the county or registry district in which they are situated. In the waters so set apart, the commissioner and persons acting under his authority in their respective fish culture and scientific work may take fish at any time or in any manner, and erect and maintain any fixtures necessary for such purposes.

The commissioner may establish such rules and regulations as he may deem necessary by publishing and filing in the same manner as rules and regulations are established as provided for in section 9.

The commissioner may cause the destruction of any mink or other destructive animal or bird found in or around any fish hatchery or feeding station in this state.

The commissioner may grant permits to transport in and beyond the limits of the state live fish, wild animals or game birds taken in the state for breeding or advertising purposes.

The commissioner may take fish and game for scientific purposes and may bring fish and game into the state or authorize the same to be done by others.

The commissioner may permit the taking of pickerel, perch and other fish in specified waters, subject to such conditions as he may prescribe, whenever it appears that said fish seriously injure the propagation of or the fishing for any game fish, after hearing pursuant to the provisions of section 9.

The commissioner may issue permits to any person, firm or corporation to engage in the business of propagating game or wild animals, or wild rabbits on islands surrounded by open salt water all year under such regulations as he shall establish. He may issue to any person, firm or corporation permit to fence in land for this purpose, providing that the fence shall be of a type which will prevent fur-bearing animals from entering or leaving the fenced-in area, and except that such permit may be issued without fencing or enclosing land in the case of islands used to propagate rabbits. When it appears that such application is made in good faith, and upon the payment of an annual fee of \$10, said commissioner may issue to the applicant a breeder's license permitting the breeding and rearing of any species of wild animals within such enclosure or on such island. Such licensed breeders may at any time sell, transport, or kill and sell, and any licensed person, firm or corporation, resident of the state of Maine, may purchase, have in possession or transport any game or fur-bearing animals, or the skins thereof, raised by virtue of the provisions of this section, under such regulations as said commissioner may establish. No person shall engage in the business of breeding or rearing any game or fur-bearing animals except domestic rabbits and chinchillas at any time without first having procured a breeder's license.

The commissioner may issue permits to any person, firm or corporation to take, have in possession, band and transport wild birds and wild animals for scientific purposes. He may issue such rules and regulations as may be necessary.

Every licensed game or fur farmer and every person authorized to take birds or wild animals or fish for scientific purposes shall, on or before the 31st day of December of each year, make detailed report to said commissioner of all he has done during the year by virtue of such license or permit, on blanks to be furnished by the said commissioner. (R. S. c. 33. 1945, c. 374, § 2. 1951, cc. 35, 229. 1953, c. 26, § 1; c. 394, § 8. 1957, c. 392, § 2. 1963, c. 279, §§ 3, 4.)

Effect of amendments. — The 1957 amendment deleted "game birds" in several places in the sixth (now seventh) paragraph, added "except domestic rabbits and chinchillas" near the end of such paragraph, and made other minor changes therein.

The 1963 amendment deleted references to the United States commissioner of fisheries in the first and third sentences of the first paragraph, deleted the last sentence of such paragraph and made other minor changes therein. The amendment also added the present second paragraph.

Sec. 15-A. Pheasant breeders; license.—The commissioner may issue a license at an annual fee of \$10 to any person, firm or corporation, permitting

the licensee to breed, rear or keep pheasants. Said licensee shall fence in land for these purposes, and such fence shall be of a type which will prevent pheasants from entering or leaving the fenced-in area.

No person shall breed, rear or keep any pheasants, except those that are owned by the department, at any time, without first having procured said license. No pheasants, either live or dressed, shall be removed from said premises until there shall have been securely attached to each bird a metallic seal. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the commissioner at a cost of 5¢. Such licensed breeders may, at any time, consume, sell, transport or kill and sell, and any person, firm or corporation, resident of the state, may purchase, have in possession or transport any pheasants raised, by virtue of the provisions of this section. Such licensed breeders may also sell live or dressed pheasants outside the state, subject to regulations governing the importation of pheasants of the state in which sold.

Every licensed pheasant breeder shall, on or before the 31st day of December of each year, make a detailed report to said commissioner, on blanks to be furnished by the commissioner.

A license shall only be issued to persons who comply with the provisions of this section, and such license shall be revoked for any violation thereof. (1957, c. 392, § 3.)

Sec. 16. State game farms.—The commissioner is authorized to purchase suitable lands and erect buildings thereon within this state, necessary for the operation of state game farms for the propagation of game birds and game animals for restocking the woods and forests of the state, and to take game of any kind, dead or alive, or import the same for the purposes of inspection, cultivation, propagation, distribution or for scientific or other purposes deemed by him to be of interest to the game industry of this state. (R. S. c. 33. 1945, c. 374, § 2. 1955, c. 290, § 4.)

Effect of amendment.—The 1955 amendment deleted the words “experimental work in” following the word “for” in line three.

Sec. 17. Regulating public use of game management areas. — The commissioner is authorized to regulate hunting, fishing, trapping, boating, camping and other public use on game management areas and is authorized to close such areas to hunting, fishing, trapping, boating, camping and other public use or to permit the taking of any species which he shall designate for such periods, on such portions of the areas, and under such special regulations as are necessary to insure a desirable effect on game populations and provide for human safety. When game management areas are bordered by tidal flats such authority shall extend to the low-water mark on said flats.

On department-owned lands, the commissioner may harvest and sell natural products of the land, including hay, timber and Christmas trees, and fur bearers may be removed from said game management areas by controlled trapping conducted under the direction of the commissioner.

Regulations may be published and filed in the same manner as rules and regulations as provided for in section 9 and each area shall be posted with signs setting forth the regulations in effect thereon. (1949, c. 170. 1955, c. 290, § 5. 1957, c. 102, §§ 1, 2. 1963, c. 279, § 5.)

Effect of amendments. — The 1955 amendment substituted the words “as provided for in section 9” for the words “pertaining to fishing” in the fourth and last paragraph. The 1957 amendment deleted the words “owned or leased by the state” which formerly appeared in the first paragraph, and added the provision relative to harvesting and sale of natural products of department-owned lands.

The 1963 amendment inserted the provisions as to boating, camping and other public use in the first sentence of the first paragraph and deleted “in which case the furs shall become the property of the state and the proceeds from their sale shall be used for maintenance of the game

management areas" at the end of the third paragraph.

As the second paragraph was not

changed by the amendments, it is not set out.

Fish Hatcheries. Fish Screens.

Sec. 19. Commissioner may take land for fish hatcheries or game management areas or acquire access sites to Merrymeeting bay; appeal.

—The commissioner for the location, construction, maintenance and convenient operation of a game management area for game, fish hatchery or fish hatcheries and feeding stations for fish may acquire in the name of the state by gift, bequest or otherwise, real and personal property; or he may purchase, lease or take and hold, for and in behalf of the state as for public uses, land and all materials in and upon it or any rights necessary for the purpose of establishing, erecting and operating game management areas, fish hatcheries or feeding stations. The commissioner may acquire by deed or grant and hold in the name of the state public access sites to Merrymeeting bay. When the commissioner finds that a public need requires the taking of any land or rights for the purpose aforesaid, he shall cause the same to be surveyed, located and so described that the same can be identified, and a plan thereof shall be filed in the registry of deeds in the county or registry district where the land or rights are located, and there recorded. The filing of such plan and description shall vest the title to the land and right aforesaid in the state or its grantees, to be held during the pleasure of the state.

(R. S. c. 33. 1945, c. 374, § 2. 1959, c. 110.)

Effect of amendment.—The 1959 amendment added the second sentence to this section. Since the second paragraph of this section was not affected by the amendment,

it is not set out.

Stated in Williams v. State Highway Comm., 157 Me. 324, 172 A. (2d) 625.

Sec. 20. Federal fish culture recognized.—The United States fish and wildlife service and its duly authorized agents are accorded the right to conduct fish culture operations and scientific investigations in the waters of this state in such manner and at such times as may be considered necessary and proper by the said service and its agents. (R. S. c. 33. 1945, c. 374, § 2. 1963, c. 279, § 6.)

Effect of amendment. — The 1963 amendment made this section applicable to the United States fish and wildlife

service, instead of the United States commissioner of fisheries.

Bulldozing of Waters.

Sec. 22. Bulldozing of rivers, streams and brooks.—Whoever bulldozes or causes to be bulldozed between the banks of a river, stream or brook in excess of 500 feet in length in any one mile, measured along the thread of the stream, without first obtaining permission therefor from the commissioner, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$100 nor more than \$500. (1953, c. 296, § 1. 1957, c. 392, § 4.)

Effect of amendment. — The 1957 amendment rewrote this section.

Inland Fish and Game Wardens.

Sec. 24. Inland fish and game wardens; appointment; compensation; powers and duties; service of processes.—The commissioner shall appoint persons as fish and game wardens who shall have qualified under the written code prepared by the commissioner and approved by the state personnel board. The compensation of the wardens shall be determined under the personnel law.

It shall be the duty of the inland fish and game wardens to enforce all laws relating to inland fisheries and game and all rules and regulations pertaining thereto, chapter 141, sections 11, 11-A and 17, to arrest all violators thereof, and to prosecute all offenses against the same.

The wardens shall have the authority to serve criminal processes on offenders of the law, and to arrest and prosecute camp trespassers or persons committing larceny from any cottage, camp or other building, and, except before the district court, shall be allowed the same fees as sheriffs and their deputies for like services, all such fees to be paid to the commissioner. The wardens shall have the same rights as sheriffs to require aid in executing the duties of their office. They may serve all processes pertaining to the enforcement of any provision of this chapter.

The wardens shall have the authority to arrest any person who assaults or in any manner willfully obstructs any inland fish and game warden while in the lawful discharge of his duties. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 372, § 2. 1957, c. 334, § 4. 1961, c. 291; c. 397, § 2. 1963, c. 25; c. 402, § 72.)

Effect of amendments.—The 1957 amendment made the former first sentence of the third paragraph into two sentences and inserted "except before trial justice or municipal courts" in the present first sentence of such paragraph.

Chapter 291, P. L. 1961, added the last paragraph. Chapter 397, P. L. 1961, rewrote the first paragraph.

The first 1963 amendment inserted the references to chapter 141, §§ 11, 11-A and 17 in the second paragraph.

The second 1963 amendment substituted "the district court" for "trial justice or municipal courts" in the first sentence of the third paragraph.

Application of second 1963 amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 26. Sheriffs, deputy sheriffs, police officers, constables and coastal wardens to have powers of wardens; wardens not to hold other office; lost persons.—Sheriffs, deputy sheriffs, police officers, constables and coastal wardens are vested with the powers of inland fish and game wardens, and shall receive for similar services the same fees as those of inland fish and game wardens. Wardens appointed under authority of this chapter shall hold no other state, county or town office from which they receive compensation.

(1963, c. 279, § 7.)

Effect of amendment.—The 1963 amendment substituted "wardens appointed under authority of this chapter" for "fish and game wardens appointed under the provisions of section 27" at the be-

ginning of the second sentence.

Since the second paragraph of this section was not affected by the amendment, it is not set out.

Sec. 27. Repealed by Public Laws 1961, c. 397, § 3.

Sec. 28. Code of operating procedure of warden service.—The commissioner shall prepare a written code covering the operating procedure of the warden service which shall be effective when approved by the state personnel board. (R. S. c. 33. 1945, c. 374, § 2. 1961, c. 397, § 4.)

Effect of amendment.—The 1961 amendment rewrote this section.

Secs. 29-33. Repealed by Public Laws 1961, c. 397, § 5.

Guides.

Sec. 36. Applications for guide's licenses made to commissioner in writing; fees; revocation of license.—A guide is any person who receives any form of remuneration for his services in accompanying or assisting any hunter, fisherman or camper in the fields, forests or waters of the state.

No person shall act as a guide until he has procured a license to do so from the commissioner and he shall not be eligible to obtain a license to guide until he is 18 years of age.

Application for a guide's license shall be made in writing to the commissioner on forms furnished by the department and shall be approved by an inland fish and game warden. The commissioner may, upon sufficient proof as to his competency, issue the license. No person shall be issued a guide's license unless he is physically, mentally and morally capable of guiding and caring for a party in the forests or on the waters of the state and said commissioner may, at his discretion, suspend or revoke the license of any guide for incompetency or for failure to discourage violations of the fish and game laws.

A fee of \$8.50 shall be paid annually for a resident guide's license. Nonresidents may be so licensed upon payment of a fee of \$50. Persons licensed under this section may hunt and fish by virtue of their guide's license or, if requested by the applicant, the persons licensed under this section may be restricted to fishing.

Whenever a guide, licensed as provided in this section, is charged with having violated any of the inland fish and game laws, the commissioner may suspend his license. Whenever a licensed guide is convicted of having violated any of the inland fish and game laws in the conduct of his guiding activities, the commissioner shall suspend his license as provided in section 74.

Any person who guides without first having procured a license to do so from the commissioner shall be subject to a fine of not less than \$25 and each day that he so guides shall constitute a separate offense.

Nothing in this section shall be construed so as to prevent a councilor at a bona fide children's summer camp, said camp being licensed by the department of health and welfare, from performing his usual duties as such councilor without obtaining a guide's license. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 355, § 1. 1951, c. 300, § 2. 1953, c. 6; c. 394, § 10. 1955, c. 153, § 1. 1961, c. 25.)

Effect of amendments. — The 1955 amendment, effective January 1, 1956, increased the resident guide's license fee provided for in the present fourth paragraph from \$7.50 to \$8.50. The 1961 amendment eliminated the former third paragraph, requiring each guide to make an annual report to the commissioner.

Sporting Camps.

Sec. 37. Sporting camps defined; regulation by commissioner.

Every person, maintaining a sporting camp within the territory described in the preceding paragraph, shall obtain a license from the commissioner each calendar year, and shall pay therefor a fee of \$5. The license shall not be issued unless the applicant files the written consent of the landowner or his agent upon whose property the sporting camp is located. Such written consent shall be filed once by the applicant, and so far as the particular applicant is concerned, it shall remain effective from year to year until the commissioner is notified in writing by the landowner or applicant that the consent has been withdrawn. The holder of each license issued under the provisions of this section shall report the number of residents and nonresidents entertained in such camp, and shall furnish such other information relative to the natural resources of the state as the commissioner may require, and shall file the same on or before the 15th day of December of each calendar year.

(1955, c. 113.)

Effect of amendment.—The 1955 amendment inserted the third sentence of the second paragraph. As the rest of the section was not changed by the amendment, only the second paragraph is set out.

Definitions.

Sec. 38. Definitions.—Each word or term defined in this section has the meaning indicated in this section for the purposes of this chapter, unless a different meaning is plainly required by the context.

I. Closed season. "Closed season" shall mean the time during which it is unlawful to hunt, pursue, shoot, wound, trap, destroy or possess any bird or animal, to fish for or catch any fish.

II. Fly. "Fly" means a hook dressed with feathers, hair, thread, tinsel or any similar material to which no additional weights, hook, spinner, spoon or similar device is added.

III. Fly fishing. "Fly fishing" means to cast upon water and retrieve in the usual and ordinary manner an unbaited, unweighted artificial fly attached to a line to which no extra weight has been added.

IV. Inland waters. "Inland waters" means all waters within the state above the rise and fall of the tide and wholly or partly within the territorial limits of the state and excepting private ponds as defined in section 62.

V. Jigging. "Jigging" shall mean the use of any fishing tackle or device used in an attempt to snag or snare fish.

VI. Landlocked salmon and salmon. "Landlocked salmon" and "salmon" shall be construed to mean the same species of fish.

VII. Open season. "Open season" means the time during which it shall be lawful to take animals, birds and fish as specified and limited by law.

VIII. Tributary. "Tributary" means a brook or stream flowing directly or indirectly into a lake, pond or another stream. A lake or great pond shall not be construed to mean "tributary." The tributary to a great pond shall not be considered a tributary to the outlet of that great pond.

IX. Water thoroughfare. A "water thoroughfare" means a waterway without flowage, as distinguished from a stream or river, connecting 2 bodies of water. All thoroughfares and bogs shall be covered by the same laws applicable to lakes and ponds except as provided.

X. Wild bird. "Wild bird" means a species of bird wild by nature, whether or not bred or reared in captivity, as distinguished from common domestic birds. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 11. 1963, c. 279, § 8.)

Effect of amendment. — The 1963 amendment added the introductory paragraph, designated the definitions as subsections, added the definitions of "fly," "inland waters," and "wild bird," and inserted the words "in the usual and ordinary manner" in the definition of "fly fishing."

**Fishing. Open Seasons. Size and Weight of Fish. Regulations
in Lumber Camps. Implements and Devices Prohibited.
Ice Fishing. Transportation of Fish. Stocking of
Lakes and Streams. Cultivation of Fish. Juris-
diction of Commissioner. Operation of
Boats on Inland Waters. Restricting
the Use of Power Boats.**

Sec. 39. Fishing licenses; fees; revocation; free hunting and fishing permits.—No person shall fish in any inland waters of the state, except in accordance with the following provisions: (1957, c. 392, § 5)

II. Each resident of Maine over 16 years of age and each nonresident over 10 years of age shall purchase a fishing license, which shall be kept upon the person while fishing or transporting fish, and shall be exhibited upon request to any warden, guide or employee of the department. Any resident under 16 years of age and any nonresident under 10 years of age may fish without a license. A resident shall apply and obtain a license from the clerk or agent in the town in which he has a residence, but if the applicant is a resident of the

state and is domiciled in an unorganized territory, then the clerk or agent in the town nearest to the unorganized place may issue a license. The commissioner may appoint agents in unorganized towns for the purpose of issuing resident fishing licenses to the residents domiciled in that unorganized town. (1947, c. 355, § 2. 1955, c. 290, § 7-A. 1957, c. 392, § 6)

III. For the purpose of issuing licenses, the commissioner may appoint clerks of towns or such other agents as he deems necessary, and shall determine the period during which they shall act. The resident license shall be issued upon payment of \$2.75, and the clerk or agent shall retain 25¢ from the fee. The license shall be valid for the calendar year in which it was issued. All licenses shall expire on midnight of December 31st of the year of issue. No license shall be willfully issued to any person not a resident of the municipality in which said license is issued, and the penalty of any violation of this provision shall be \$10 and costs. (1945, c. 374, § 2. 1947, c. 355, § 2. 1955, c. 153, § 2; c. 290, § 7-A. 1957, c. 392, § 7)

V. There shall be 4 classes of nonresident fishing licenses. A license for the entire season shall cost \$8.75. A 15-day license shall cost \$5.75 and shall remain in effect for 15 days from the date as designated in the license. The amount paid on a 15-day license shall be credited on an entire season license upon the additional payment of \$3.25 in the same year in which the 15-day license was issued. A junior nonresident license, for persons between the ages of 10 and 16 years, shall cost \$2.25 for a season. In all cases, 25¢ shall be retained by the agent from the license fee. Any resident or nonresident of the state may procure a license good for 3 consecutive days as designated in the license upon the payment of \$3.75, 25¢ to be retained by the agent. The date of the days must be plainly enumerated on the face of the license. Any resident of the state who procures a 3-day license may exchange the same for an annual resident fishing license in the town in which he resides, upon the payment of 25¢ to the clerk or agent who issues same. (1947, c. 355, § 3. 1949, c. 3. 1953, c. 394, § 13. 1955, c. 153, § 3. 1963, c. 279, § 9.)

IX-A. Free permits for patients at Pineland hospital and training center. The commissioner is authorized to issue free fishing permits covering groups of patients at the Pineland hospital and training center. These permits shall be issued on request of the superintendent of the Pineland hospital and training center, shall be effective while such groups are being conducted by a representative of the Pineland hospital and training center and while such groups are fishing within a 25-mile radius of New Gloucester. (1963, c. 279, § 9-A)

X. The commissioner shall issue a hunting, trapping and fishing license to any Indian over the age of 16 years of the Passamaquoddy and Penobscot tribes without any charge or fee, providing the Indian presents a certificate from the commissioner of health and welfare stating that the person described is an Indian and a member of that tribe. For the purpose of this section, an Indian shall be any member on the tribal lists of the Penobscot and Passamaquoddy tribes of Indians. Holders of such licenses shall be subject to all of the laws, rules and regulations of this chapter. (1947, c. 19, § 2. 1953, c. 378, § 3; c. 394, § 14. 1959, c. 268)

XII. A license to hunt or fish shall be issued, at the resident license fee, to any member of the armed forces of the United States of America who is a citizen of the United States and stationed at some military or naval post, station or base within the state, or his or her spouse or minor child who is at least 16 years of age. Said member of the armed forces, desiring a hunting or fishing license, must present certification from the commander of said post, station or base, or his designated agent, that the person mentioned in the certification is stationed at or attached to said post, station or base.

Licenses may be issued by the clerk or agent in the town in which said military or naval post, station or base is situated.

Holders of such licenses shall be subject to all the laws of the state and the rules and regulations of the commissioner regulating hunting and fishing; and for violations of said laws or rules and regulations, such license shall be revoked in the same manner as provided in this chapter for the revocation of hunting and fishing licenses. (1951, c. 238. 1955, c. 9; c. 290, § 7-B)

XII-A. Repealed by Public Laws 1957, c. 429, § 43.

XII-B. A license to hunt or fish shall be issued, at the resident license fee, to any civilian employee and immediate family, residing on any military or naval post, station or base within the state. Said civilian employee and immediate family, desiring a hunting or fishing license, must present certification from the commander of said military or naval post, station or base or his designated agent, that the person mentioned in the certification is such a civilian employee and immediate family, and has resided on said military or naval post, station or base for a period of 3 months.

Licenses shall be issued by the clerk of the town in which said military or naval post, station or base is situated.

Holders of such licenses shall be subject to all the laws of the state and the rules and regulations of the commissioner regulating hunting and fishing; and for violations of said laws or rules and regulations, such license shall be revoked in the same manner as provided in this chapter for the revocation of hunting and fishing licenses. (1957, c. 124; c. 429, § 42)

XII-C. The department of inland fisheries and game shall be permitted to issue complimentary nonresident fishing and hunting licenses, not to exceed 500 in total, under the following provisions:

These licenses are to be issued to newspaper or magazine writers and photographers; radio and television writers and photographers; others who will assist in publicizing the state of Maine; and visiting dignitaries from other states or of national or international importance. The persons qualified to receive these licenses shall be passed upon by a committee composed of the commissioner of inland fisheries and game and the commissioner of economic development, or a member of his department whom he shall designate, and a member designated by the governor.

The purpose of this project would be to increase the income of the department of inland fisheries and game, to increase the income to the vacation travel business, and to honor state and national or international leaders who are likely to mention our state favorably to others. (1957, c. 429, § 44)

XII-D. Licenses for Canadian soldiers stationed in Maine. A license to hunt or fish shall be issued, at the resident license fee, to any member of the armed forces of Canada stationed at some military or naval post, station or base within the state. Said member of the armed forces, desiring a hunting or fishing license, must present certification from the commander of said post, station or base, or his designated agent, that the person mentioned in the certification is stationed at or attached to said post, station or base.

Licenses shall be issued by the clerk of the town in which said military or naval post, station or base is situated.

Holders of such licenses shall be subject to all the laws of the state and the rules and regulations of the commissioner regulating hunting and fishing; and for violations of said laws or rules and regulations, such license shall be revoked in the same manner as provided in this chapter for the revocation of hunting and fishing licenses. (1961, c. 175)

(1955, c. 9; c. 153, §§ 2, 3; c. 290, §§ 7-A, 7-B. 1957, c. 124; c. 392, §§ 6, 7; c. 429, §§ 42, 43, 44. 1959, c. 268. 1961, c. 175. 1963, c. 279, §§ 9, 9-A.)

Effect of amendments.—This section Laws of 1955. Chapter 9, effective on its was amended three times by the Public approval, February 24, 1955, added at the

end of the first sentence of subsection XII the words "or his or her spouse or minor child who is at least 16 years old." Chapter 153, effective January 1, 1956, increased the license fees in subsection III and in the second, third and seventh sentences of subsection V. Chapter 290 again increased the fee in subsection III, to the same amount to which it had been raised by c. 153, substituted the present first sentence of subsection III for the former first and second sentences, and inserted the words "or agent" in the present second sentence. Chapter 290 also substituted the words "or agent in" for the word "of" in two places in the second sentence of subsection II and in the third sentence of subsection XII and substituted "may" for "shall" in the third sentence of subsection XII. Chapter 290 set out subsection XII without referring to or incorporating the change made by c. 9; however, both amendments have been given effect in the subsection as set out above.

The first 1957 amendment added subsection XII-A. The second 1957 amendment added the subsection codified herein as subsection XII-B. By the amendment this subsection was also designated as XII-A, but since such number was pre-empted by the first 1957 amendment, it has been inserted as "XII-B". The third 1957 amendment substituted "No person" for "No resident of the state over 16 years of age and no nonresident over the age of 10 years" in the introductory paragraph, inserted "over 16 years of age" and "over 10 years of age" in the first sentence of subsection II and inserted the second sentence in such subsection, and inserted the word "resident" in the second sentence of subsection III. P. L. 1957, c. 429, which be-

came effective on October 31, 1957, amended this section three times. P. L. 1957, c. 429, § 42, substituted "military or naval post, station or base" for "base" three times in the first paragraph of subsection XII-A, as enacted by the second 1957 amendment, which is now codified as XII-B, and substituted the words "military or naval post, station or base" for the words "Air Force Base" in the second paragraph. Section 43 repealed subsection XII-A, added by the first 1957 amendment. Section 44 added the subsection codified herein as subsection XII-C. By the amendment this subsection was designated as XII-B, but since such number was pre-empted as a result of the duplicity of numbers arising as a result of the first and second 1957 amendments, it has been inserted as "XII-C".

The 1959 amendment substituted the words "any member on the tribal lists of the Penobscot and Passamaquoddy tribes of Indians" for the words "a person whose mother and father were Indian", formerly appearing in the second sentence of subsection X.

The 1961 amendment, effective on its approval, April 4, 1961, added the subsection codified herein as subsection XII-D. By the amendment this subsection was designated as XII-C, but since such number was pre-empted by P. L. 1957, c. 429, § 44, it has been inserted as "XII-D".

The 1963 amendment deleted "who is a citizen of the United States" formerly appearing in the seventh sentence of subsection V and added subsection IX-A.

Only the introductory paragraph and subsections changed or added by the amendments are set out.

Sec. 42. Closing fishways and waters near hatcheries and feeding stations to fishing.—No person shall fish within 150 feet of any dam in which a fishway is located. Except at Upper dam in Richardsontown (T4 R1) at the outlet of Mooselookmeguntic lake in Oxford county, at Middle dam in T C at the outlet of Lower Richardson lake in Oxford county and at East Outlet dam in Sapling (T1 R7) in Somerset county and in Big Squaw mountain in Piscataquis county at the outlet of Moosehead lake, the fishway and the area within 50 feet of any part of these fishways shall be closed to fishing at all times. This section shall not include the taking of alewives and smelts in the manner provided under the laws regulating sea and shore fisheries.

All pools of state fish hatcheries and rearing stations and all waters within 200 feet of such hatchery and rearing station pools shall be closed to all fishing. (R. S. c. 33. 1945, c. 374, § 2. 1955, c. 290, § 8. 1957, c. 444. 1959, c. 333, § 4.)

Effect of amendments.—The 1955 amendment substituted the words "dam in which a fishway is located" for the word "fishway" in the first paragraph and added the

second paragraph.

The 1957 amendment, which became effective on May 8, 1958, divided the first sentence into the present first and third

sentences and inserted the present second sentence in the first paragraph.

The 1959 amendment rewrote the last paragraph of this section.

Sec. 43. Repealed by Public Laws 1959, c. 333, § 5.

Sec. 44. Open seasons for fishing.—The following shall be the open seasons for fishing in the state, except as changed by rules and regulations of the department, and the opening and closing dates in all instances are inclusive. That part of any calendar year falling outside of the open season shall be expressly declared to be a closed season:

I. All fish, except black bass in lakes and ponds. The open season for all fish, except black bass, in waters or portions of waters naturally free of ice in lakes and ponds, shall be from April 1st to September 30th. On brooks and streams, the open season for all fish shall be from the last Saturday in April to August 15th. In rivers the open season for all fish shall be from the last Saturday in April to September 15th.

I-A. Repealed by Public Laws 1963, c. 74, § 2.

II. There shall be an open season for black bass in lakes and ponds from June 21st to September 30th; in rivers above tidewater from June 21st to September 15th; in brooks and streams from June 21st to August 15th. Three black bass per day on single-pointed hooked artificial lures only may be taken from June 1st to June 20th and no person shall have in his possession at any one time more than 3 black bass during this period.

III. There shall be an open season for all fish except black bass in all the rivers above tidewater in waters free of ice from April 1st until September 15th.

IV. All fish except black bass in brooks and streams. There shall be an open season for all fish except black bass in brooks and streams in waters free of ice from April 1st until August 15th, except that portion of Fish river between Fish river lake and Round pond in T. 14, R. 8, Aroostook county, shall be open to fishing until September 30th.

V. It shall be lawful to take smelts in accordance with the provisions of section 55 at any time in waters where the taking of smelts is not prohibited by rules and regulations of the commissioner.

VI. Black bass. In any waters where the bag limit on black bass has been removed by rule and regulation of the commissioner, the season on black bass and the method of fishing for them shall be the same as for trout and salmon. (R. S. c. 33. 1945, c. 374, § 2. 1949, c. 238. 1953, c. 10; c. 394, § 17. 1955, cc. 33, 133. 1957, c. 68; c. 392, § 8. 1961, cc. 195, 220, 224. 1963, c. 74, §§ 1, 2; c. 136.)

Effect of amendments.—The first 1955 amendment inserted in the second sentence of subsection II the words “per day on single-hooked artificial lures,” and deleted the words “by fly fishing in any 1 day,” formerly appearing after the word “taken” in the same proviso. It also deleted the former last sentence of subsection II, relating to a closed season for bass in the inland waters of Cumberland county. The second 1955 amendment substituted, in subsection I, the words “in waters naturally free of ice or any portions of waters naturally free of ice from April 1st” for the words “from the time the ice is out in the spring season.” In subsections III and IV, the second amendment substituted the words “in waters free of ice from April 1st” for the words “from the time the ice

is out in the spring season.”

The first 1957 amendment added subsection V. The second 1957 amendment, which did not refer to or give effect to the first amendment, substituted “all fish except black bass” for “salmon, trout, togue and white perch” in subsections I, III and IV and made minor changes in the second sentence of subsection II.

Chapter 195, P. L. 1961, added subsection VI. Chapter 220, P. L. 1961, added subsection I-A. Chapter 224, P. L. 1961, added the exception as to trout at the end of subsection I.

The first 1963 amendment rewrote subsection I and deleted former subsection I-A, relating to the open season in Cumberland county. The second 1963 amendment added the exception relating to a

portion of Fish river at the end of subsection IV.

All of the amendments have been given effect in the section as set out above.

Sec. 45. Size of fish and number and weight of catch.—No person shall take, catch, kill or have in possession more than 12 fish of the salmon, trout, togue or black bass species during any one day of any open season, from any or all of the inland waters of the state except in the county of Aroostook and except as provided for by rules and regulations of the department under section 9. No person shall take, catch, kill or have in possession more than 15 fish of the salmon, trout, togue or black bass species during any one day of any open season, from any or all of the inland waters of Aroostook county except as provided for by rules and regulations of the department under section 9.

No person shall take, catch or kill in any one day or have in possession at any time more than 7½ pounds in the aggregate of the trout, salmon, togue and black bass species unless the last fish caught increases the combined weight to more than 7½ pounds.

No person shall take, kill or have in possession more than 25 white perch taken from the waters of Kennebec and Somerset counties and Boyd Lake in Piscataquis county except as provided by rules and regulations of the department under section 9.

No person shall have in his possession at any time, except as provided by rules and regulations of the department under section 9:

I. A salmon or togue less than 14 inches in length except that the length limit on salmon taken from any of the waters in Aroostook county shall be 12 inches;

II. A trout less than 6 inches in length;

III. A black bass less than 10 inches in length.

Whenever any waters have a special bag limit, no person shall have in possession more than 1 day's bag limit taken from those waters.

No person shall have in his possession any salmon, trout, togue or black bass with the heads detached therefrom unless such fish are being prepared for immediate cooking.

In the event any person has fished in 2 or more counties during any one day, he shall not have in his possession more than the maximum number or maximum weight of fish permitted in the county allowing the largest number to be taken under the rules and regulations of the commissioner.

Any trout, salmon, togue or black bass kept in any sporting camp, hotel or public lodging place must have the name and address of the person who caught them attached thereto.

The provisions of this section may be modified or changed by the rules and regulations of the department under section 9. (R. S. c. 33. 1945, c. 374, § 2. 1951, cc. 48, 106. 1953, c. 394, §§ 18, 19, 20. 1955, c. 385. 1959, c. 254; c. 333, § 5-A; c. 378, § 30. 1961, cc. 26, 134. 1963, c. 30, §§ 1, 2; c. 71, § 1.)

Effect of amendments.—The 1955 amendment rewrote this section.

Chapter 254, P. L. 1959, added "Piscataquis" to the counties mentioned in the first paragraph, and deleted "Piscataquis" from the list of counties in the former second paragraph. Chapter 333, P. L., 1959, deleted the provision relative to the weight of fish caught, formerly appearing in the first and former second paragraphs and added the present second paragraph. Chapter 378, P. L. 1959, effective on approval January 29, 1960, reenacted the former first two paragraphs so as to give effect to both of the earlier 1959 amendments.

Prior to c. 26, P. L. 1961, the third

paragraph applied to the waters of Franklin, Kennebec, Piscataquis and Somerset counties and to Mattawamkeag lake in Aroostook county. Prior to c. 134, P. L. 1961, the first paragraph applied in the counties of Franklin, Somerset and Piscataquis. The amendment also deleted the former second paragraph, providing a limit of 15 salmon, trout, togue or black bass in certain counties.

The first 1963 amendment increased the limit from 10 to 12 fish near the beginning of the first paragraph, substituted "inland waters" for "rivers, streams, brooks, lakes and ponds" in the first sentence of such paragraph, added the exception as to

Aroostook county in such sentence and added the second sentence of the first paragraph. The second amendment added the exception as to the length limit in Aroostook county at the end of subsection I.

Editor's note.—Section 2 of P. L. 1963, c. 71, amending subsection I of this section, provides that the act shall remain in effect only until October 1, 1965.

Sec. 46. Penalty for violation of sections 44 and 45.—Whoever violates any provision of sections 44 and 45 shall pay a fine of not less than \$10 nor more than \$30, and costs of prosecution, for each offense; and in addition thereto, \$1 for each fish taken, caught, killed or had in possession in violation of any provision of said sections. (R. S. c. 33. 1945, c. 374, § 2. 1959, c. 378, § 31.)

Effect of amendment.—The 1959 amendment, effective on its approval, January 29,

1960, substituted "sections 44 and 45" for "the 3 preceding sections".

Sec. 46-A. Daily limit and live fish as bait in certain waters.—The commissioner of inland fisheries and game is authorized and directed to issue a rule and regulation establishing a 5-fish daily limit and prohibiting the use or possession of live fish as bait in such waters as have been reclaimed by the removal of rough fish. (1957, c. 437, § 1.)

Effective date.—The 1957 act adding this section became effective January 16, 1958.

Sec. 49. Sale of certain fish.

Anyone desiring to sell such fish which have been either commercially grown within the state or imported from without the state must first obtain a license from the commissioner who is authorized to issue such licenses, subject to such rules and regulations as he may deem necessary to carry out the provisions of this section. The license fee shall be \$1 and licenses shall be kept constantly and publicly posted in the office or place of business of the licensee. Whenever any person, partnership or corporation sells such fish in more than 1 wholesale or retail outlet, each shall be licensed.

(1955, c. 290, § 10.)

Effect of amendment.—The 1955 amendment added the last sentence of the second paragraph. As the rest of the section

was not changed by the amendment, only the second paragraph is set out.

Sec. 50. Lumber camps shall not serve salmon, trout, togue, bass or pickerel.—No owner, keeper or employee thereof or any other person shall have in his possession any salmon, trout, togue, black bass, white perch or pickerel from the inland waters of the state for the purpose of serving or consuming the same in any camp, house or other building used partly or wholly in lumbering operations, log driving or construction of any kind. It shall be prima facie evidence of a violation of this section on the part of any keeper or owner of such camp used in lumbering or construction operations to have in his possession in such camp any fish described in this section. The provisions of this section shall not apply to pickerel in Washington county. (R. S. c. 33. 1945, c. 374, § 2. 1959, c. 333, § 6.)

Effect of amendment.—The 1959 amendment substituted the words "have in his possession" for the word "take", formerly

appearing after the word "shall" and before the word "any" in the first sentence of this section.

Sec. 51. Lumber camps not to use certain game as food.—No owner, keeper or employee thereof or any other person shall have in his possession any protected game bird or game animals, or parts thereof, at any time for the purpose of serving or consuming the same in any camp, house or other building used partly or wholly in lumbering operations, log driving or construction of any kind.

(1959, c. 333, § 7.)

Effect of amendment.—The 1959 amendment substituted the words "have in his possession" for the word "take", formerly appearing in the first part of the first para-

graph of this section. Since the second paragraph was not affected by the amendment, it is not set out.

Sec. 52. Certain implements and devices.—It shall be unlawful to use dynamite or any other explosive, poisonous or stupefying substance at any time for the purpose of taking or destroying any kind of fish. A violation of this provision shall be punished by a fine of not less than \$100 and costs for each offense or by imprisonment for 2 months.

It shall be lawful to angle or fish by use of the single-baited hook and line, artificial flies, artificial minnows, artificial insects, spoon hooks and spinners except that it shall be lawful to take smelts in Fish River chain of lakes, Aroostook county, by use of 3 single-baited hooks spaced a minimum of 4 inches apart.

It shall be unlawful to gig fish at any time.

All other devices, such as fish spawn, grapnel, spear, trawl, weir, gaff, seine, gill net, trap or set lines except as hereinafter provided, for the taking, catching, killing or destruction of fish shall be unlawful except that it shall be lawful to take suckers, eels, hornpouts, yellow perch, white fish and cusk in accordance with the provisions of section 57. No person shall have in his possession at any time any grapnel, trawl, weir, seine, gill net, trap or set lines except in accordance with the provisions of this section and sections 15 and 57 in any lodge or place of resort for hunters or fishermen or in its immediate vicinity, or on any of the lakes, rivers or streams of the state, or in their immediate vicinity, in the inland territory of the state.

Any violation of the provisions of this section shall be punished by a fine of not less than \$10, nor more than \$300, and costs of prosecution, for each offense, and in addition thereto, \$1 for each fish unlawfully taken, caught, killed or in possession of any violator of this section.

No person shall fish with more than 2 lines at any 1 time except in accordance with the provisions of section 54. (R. S. c. 33. 1945, cc. 21, 143; c. 374, § 2. 1947, c. 18. 1949, c. 68. 1953, c. 394, §§ 22, 23. 1955, c. 115. 1963, c. 33.)

Effect of amendment. — The 1955 amendment deleted the former fifth paragraph, which permitted gill nets of not larger than 1¼ inch mesh to be used in the taking of white fish in certain waters.

The 1963 amendment added the exception as to taking of smelts in Fish river chain of lakes at the end of the second paragraph.

Sec. 52-A. Implements and devices in Washington county waters.—Between the first day of May and the first day of December, inclusive, of each year, it shall be unlawful to set or use any device such as fish spawn, grapnel, spear, trawl, weir, gaff, seine, gill net, trap or set line on the waters of the Pleasant river and its tributaries in Columbia Falls and Addison, in Washington county, above Maine River Bridge, so called, in said Addison, and during such closed period no person shall have in his possession any grapnel, trawl, weir, seine, gill net, trap or set line on the waters of the Pleasant river or its tributaries within the above described boundaries. This section shall not apply to the taking of eels by spear from said waters during the month of November annually. This section shall not apply to the taking of alewives from said waters as authorized by the general law or by vote of the town of Columbia Falls. Any equipment used in violation of this section shall be confiscated by the commissioner, after final adjudication of any charge brought under this section. (1957, c. 233.)

Effective date.—The act which inserted this section became effective on its approval, May 7, 1957.

Sec. 53. Use and possession of gill nets.—It shall be unlawful for anyone to use or have in possession a gill net on any of the inland waters of the state. (1955, c. 81.)

Effect of amendment.—The 1955 amendment substituted “inland waters of the state” for “waters of the Fish River Chain of Lakes in county of Aroostook” in the

first paragraph. As the second paragraph was not changed by the amendment, it is not set out.

Sec. 54. Ice fishing.—All inland waters of the state are closed to ice fishing except those which have been opened to fishing through the ice by rule and regulation of the commissioner. A person legally licensed may fish through the ice in the daytime with not more than 5 lines, set or otherwise, which shall be under the immediate supervision of such person, in any waters which have been opened to ice fishing by the commissioner.

It shall be lawful to fish in the nighttime by using not more than 5 lines set or otherwise for cusk in the waters which have been opened to ice fishing by the commissioner for salmon, trout and togue. Provided that all lines set for cusk in the nighttime must be visited at least once in every hour by the person setting the same. The commissioner may open other waters for fishing for cusk in the nighttime.

Unless otherwise specified, the legal lengths and daily limits which have been established for open water fishing in each county shall apply to all waters open to ice fishing in those counties.

Except as set forth in this section, it shall be unlawful to ice fish from ½ hour after sunset to ½ hour before sunrise of the following morning. (R. S. c. 33. 1945, c. 374, § 2. 1951, c. 133. 1953, c. 394, § 24. 1955, c. 290, § 11.)

Effect of amendment.—The 1955 amendment deleted the former last sentence of this section, which required that each line or trap have attached to it the name and address of the owner.

Sec. 54-A. Ice fishing in certain waters regulated.—The commissioner of inland fisheries and game is authorized and directed to issue a rule and regulation closing to ice fishing such waters as have been reclaimed by the removal of rough fish. (1957, c. 437, § 2.)

Effective date.—The 1957 act adding this section became effective January 16, 1958.

Sec. 54-B. Ice fishing shacks to be removed; owner's name on ice fishing shack.—No owner of any shack or temporary structure used for ice fishing purposes shall leave or allow the same to remain on the ice of any inland waters three days after the waters on which such shack or temporary structure is located closes to ice fishing. When said structure is on the ice of any inland waters the owner's name shall be painted on the outside of said shack in 2-inch letters. Whoever violates this section shall be punished by a fine of not more than \$300 and costs or by imprisonment for not more than 90 days, or by both. (1961, c. 137.)

Sec. 55. Taking of smelts.—Smelts may be taken by the use of a dip-net in the usual and ordinary way. No person shall take, kill, catch or have in possession more than 4 quarts of smelts in any one day. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 25. 1963, c. 279, § 10.)

Effect of amendment. — The 1963 amendment deleted the former first sentence of this section and also deleted “during the open season on such waters” at the beginning of the second, now first, sentence.

Sec. 58. Transportation of fish, regulated.

Any person legally in possession of any fish may ship his daily limit of fish to his home by way of a common carrier, in accordance with this chapter. Such privilege of shipment may be exercised once every 10 days by purchasing from the commissioner or his agent a transportation tag which shall cost \$1.25. Twenty-five cents shall be retained by the issuing agent.

(1963, c. 279, § 11.)

Effect of amendment. — The 1963 amendment increased the cost of the transportation tag from \$1 to \$1.25 at the end of the second sentence of the second paragraph, added the third sentence to

such paragraph and made other minor changes therein.

Since only the second paragraph was affected by the amendment, the rest of the section is not set out.

Sec. 61. Repealed by Public Laws 1963, c. 279, § 12.

Sec. 62. Cultivation of useful fish by individuals.—Any riparian proprietor may, within the limits of his own premises, enclose the waters of a stream not navigable for the cultivation of useful fish; provided that he furnishes suitable passages for fish naturally frequenting such waters, and does not obstruct the passage of boats and other craft and materials, in places where the same have a right to pass. Any person legally engaged in the artificial culture and maintenance of fish may take them in his own enclosed waters wherein the same are so cultivated and maintained, as and when he pleases, and may at all times sell, ship or transport them from his own pools or ponds, without accompanying the shipment, having first procured a license therefor and tagged said fish in accordance with the rules and regulations established by the commissioner. No fish or fish spawn raised by the state shall be planted or deposited in such waters unless the owner shall permit the public to fish therein. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 27. 1961, c. 208.)

Effect of amendment.—The 1961 amendment added the last sentence to this section.

Sec. 63. Live bait for fishing; dealers licensed.—It shall be unlawful to sell, use or have in possession, either dead or alive, for use as bait for fishing in the inland waters of this state any pickerel, goldfish, yellow perch, white perch, bass, sunfish, crappie, hornpout, carp or any spiny-finned fish; except that the use or possession of live bait, including yellow perch which have been caught at Little Sebago lake, Cumberland county, the same day as used, shall be permitted in said Little Sebago lake.

It shall be lawful to take minnows usually used as bait for fishing, other than the above named species, for fishing in all the inland waters of the state during the period that such waters are open for fishing, as bait for fishing only in this state, except that the commissioner may grant permits to take minnows for bait purposes from certain waters at any time.

All persons dealing in live bait shall be licensed to do so by the commissioner, and the fee therefor shall be \$5 for each calendar year. The license shall authorize the person holding the same to use the ordinary commercial type minnow seine or bag net not to exceed 8 feet in depth by 150 feet in length, in the taking of minnows and other unprotected fish commonly used for bait purposes.

Persons having a bait dealer's license under this section may take smelts in accordance with section 55, and a licensed bait dealer may possess more than 4 quarts of bait at any time providing the taking was legal.

No live fish for use as bait for fishing within this state shall be imported from without the state. (R. S. c. 33. 1945, c. 374, § 2. 1951, c. 280. 1955, c. 180. 1959, c. 112. 1961, c. 364. 1963, c. 99.)

Effect of amendments. — The 1955 amendment inserted in the second sentence of the present third paragraph the words "umbrella minnow net."

The 1959 amendment inserted a new paragraph at the beginning of the section, added the last paragraph, inserted "other than the above named species" in the present second paragraph, deleted a pro-

viso as to taking white fish, formerly appearing at the end of that paragraph, and deleted "the ordinary commercial type of minnow net, umbrella minnow net or" from the second sentence of the present third paragraph.

The 1961 amendment added the exception at the end of the present first paragraph.

The 1963 amendment inserted "or bag feet in depth by 150 feet" for "4 feet in net" in the second sentence of the present third paragraph and substituted "8 depth by 25 feet" in such sentence.

Sec. 65. Repealed by Public Laws 1963, c. 279, § 13.

Sec. 66. Repealed by Public Laws 1961, c. 335, § 9.

Effective date.—Section 10 of c. 335, P. L. 1961, repealing this section, provides that the act shall become effective January 1, 1963.

Sec. 67. Restricting the use of power boats on portion of Portage lake, portion of Pennemaquan river and on Quimby pond.—No person shall operate any boat or canoe propelled by motor on that portion of Portage lake in townships T. 13, R. 6, W. E. L. S., county of Aroostook, known as the Floating Island Area, north and westerly of a line beginning at the eastern edge of the marshy peninsula running out from Hutchinson ridge, running 50 yards outside of the floating islands in a northerly direction to the mouth of Mosquito brook; and on that portion of Pennemaquan river in Pembroke, county of Washington, between the Little Falls dam and the Iron Works dam.

No person shall operate any boat or canoe propelled by motor on Quimby pond in the town of Rangeley, Franklin county. (1949, c. 321. 1961, cc. 27, 173.)

Effect of amendments.—Chapter 27, P. L. 1961, added the second paragraph. sions as to Pennemaquan River at the end of the first paragraph. Chapter 173, P. L. 1961, added the provi-

Sec. 67-A. Restricting the use of power boats on Jerry pond.—It shall be unlawful for any person, firm or corporation to use motors on watercraft, in and upon the waters of Jerry pond, so called, situated within the boundaries, or having a shore line abutting, the incorporated municipality of Millinocket and the unincorporated townships being T. 1, R. 7 and T. A., R. 7, all in the county of Penobscot. (1961, c. 185.)

Hunting and Trapping. Definitions.

Sec. 68. Hunting, aliens, firearm, jack-light, trapping, resident and game management.

II. Aliens. For the purpose of this chapter, all aliens shall be classified as nonresidents. Any alien who has resided in this state continuously for one year and in addition thereto is assessed and pays taxes on real estate in the municipality in which he resides may purchase any resident license issued under this chapter.

II-A. Firearm. "Firearm" as used in this chapter shall include all instruments used in the propulsion of shot, shell or bullets by the action of gunpowder exploded within it.

VI. "Game management" is the art or science of producing wild animals and birds and of improving wildlife conditions in the state. It may specifically include the following:

A. Regulation of hunting, fishing and trapping.

B. Environmental controls (control of water, food or cover, special features and animal diseases).

C. Research or investigations to provide a basis for sound management in Maine.

D. Manipulation of hunting pressure.

E. Establishment of game lands (parks, forests, refuges, game management areas, etc.).

F. Predator control.

G. Artificial replenishment (game farming and restocking).

H. Introduction of exotic species of wild animals or birds where needed. (1955, c. 290, § 12)

VII. A "game management area" is any tract of land or body of water owned or leased by the department for the purposes of game management as defined in subsection VI or created by an act of the legislature. (1955, c. 290, § 13)

VIII. "Sunrise" and "sunset" shall be the time given in the Maine farmers almanac. [1955, c. 290, § 13]. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 29. 1955, c. 290, §§ 12, 13. 1963, c. 116; c. 279, §§ 14, 15.)

Effect of amendments. — The 1955 amendment rewrote subsection VI and added subsections VII and VIII. section II-A and inserted "fishing" in paragraph A of subsection VI.

The first 1963 amendment substituted "one year" for "2 years" in subsection II and made other minor changes therein. The second 1963 amendment added sub-

As the rest of the section was not changed by the amendments, only subsections II, II-A, VI, VII and VIII are set out.

Trapping. Licenses. General Provisions. Snares. Poisons.

Sec. 69. Trapping licenses; fees.—Any resident who traps for any wild animal shall annually procure a license therefor from the commissioner, paying therefor \$10. The annual fee for such trapping within the limits of municipalities of the state shall be \$5. Whoever traps for any beaver on any land in the state open to beaver trapping by said commissioner shall pay therefor a fee of \$10 annually, and an additional fee of \$1 for the tagging and marking of each skin as required by law, skins to be so tagged and marked by a warden supervisor as provided in section 119. The fee for a nonresident for a trapping license shall be \$200. Any resident under 16 years of age may trap for any wild animal, except beaver, in the municipalities without a trapping license; in unorganized townships a license is required. Any resident or his immediate family may hunt or trap for wild animals, except beaver, in accordance with the laws of the state without such trapping license on land to which he is legally entitled to possess and which is used by him and his family exclusively for agricultural purposes, and on which he is actually domiciled, within the limits of an organized township. Whoever traps for any wild animal in violation of any provision of this section, or whoever has in his possession at any time any wild animal, or part thereof, taken in violation of any provisions of this section, shall be subject to the penalties provided for in section 139. Any person who has been found guilty of breaking and entering, or of larceny, shall not be eligible thereafter to obtain a trapper's license. Any person aiding, assisting or helping another in trapping or attending to traps shall be considered as a trapper and must procure a license therefor. (R. S. c. 33. 1945, c. 374, § 2. 1949, c. 168. 1951, c. 198. 1953, c. 394, § 30; c. 406, § 2. 1955, c. 101; c. 405, § 31. 1957, c. 392, § 11. 1961, c. 24.)

Effect of amendments. — The 1955 amendments made changes in the former first and second sentences. The 1957 amendment rewrote the former first and second sentences to appear as the present first four sentences, deleted a former exception as to rabbits, and made other minor changes therein.

The 1961 amendment substituted "municipalities" for "organized cities, towns or plantations" in the fifth sentence, eliminated the former sixth sentence, requiring a report of animals trapped during the year and eliminated a reference to such report in the present seventh sentence.

§ 70. Traps visited every 24 hours; when consent of owner or occupant required; trapping near built up portion of municipality.—Any person trapping in any organized or incorporated place shall visit each trap or cause the same to be visited at least once in every calendar day including Sunday, except beaver sets, so called, and remove therefrom or cause to be removed any animal found caught therein. No person shall trap except for beaver on or in any organized or incorporated place, or in any unorganized place on the cultivated or pasture area of land that is used for agricultural purposes, and on which land there is an occupied dwelling, or within 200 yards of any occupied dwelling,

without first obtaining the written consent of the owner or occupant of the land on which said trap is to be set. It shall be the duty of the landowner or occupant to prove his ownership or occupancy of the land in question before any prosecution is made under this particular part of this section.

(1963, c. 279, § 16.)

Effect of amendment.—The 1963 amendment inserted “except for beaver” near the beginning of the second sentence of the first paragraph.

Since only the first paragraph was affected by the amendment, only the first paragraph is set out.

Sec. 71. Use of snares; guns set on swivels; poisons; traps labeled; bear traps enclosed.—No person shall set a snare, or a swivel, pivot or set gun, or use or deposit any poisonous or stupefying substance for the purpose of killing, taking, catching, wounding, harming or molesting any wild animal or wild birds except that gas cartridges may be used by any landowner or member of his immediate family on his own land for woodchuck control. Any snare, or swivel, pivot or set gun, or poisonous substance, and any wild animal or wild bird taken by use of the same, shall be forfeited to the state. The commissioner or his duly appointed agents in an emergency may use such devices or methods as are necessary for control of wild dogs or other wild animals when approved by the advisory council.

No person shall advertise or give notice of the sale, or keeping for sale, of any snare, or swivel, pivot or set gun, or poisonous substance for the taking of wild animals or wild birds except rodenticide for orchard mouse control and gas cartridges for woodchuck control.

No person shall set any trap for any wild animal without having the trap plainly labeled with his full name and address, and he shall forfeit to the state the trap or traps not so marked and any wild animal found therein. No person shall set a bear trap unless the same is enclosed by at least 2 strands of wire, one 2 and one 4 feet from the ground, said wire to be securely held in position and to be not less than 5 yards or more than 10 yards at any point from the enclosed trap. Said enclosure shall be marked by substantial signs with the words “BEAR TRAP” and with letters not less than 3 inches in height, said signs to be spaced around each enclosure at intervals of not more than 20 feet and each sign securely fastened to the top strand of wire.

It shall be unlawful for any person, other than a law enforcement officer in the line of duty, to disturb or take any fur-bearing animal from any trap other than his own without the consent of the owner of such trap. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 187. 1953, c. 394, § 31. 1955, c. 145; c. 290, § 14. 1957, c. 392, § 12. 1959, c. 21, §§ 1, 2.)

Effect of amendments.—The first 1955 amendment rewrote the last sentence of the third paragraph and made other changes therein. The second 1955 amendment added the last sentence of the first paragraph.

The 1957 amendment made the first sentence of the third paragraph into two sentences, deleted “barbed” which formerly appeared preceding the word “wire” in the present second and third sentences,

and deleted “Trappe d’Ours” in the present third sentence of such paragraph.

This section was amended twice by P. L. 1959, c. 21. P. L. 1959, c. 21, § 1 added all of the language after the words “wild birds” at the end of the first sentence of the first paragraph. Section 2 added all of the language after the words “wild birds” at the end of the second paragraph of this section.

Sec. 72. Poisons not used for purposes of killing animals.

The commissioner or his duly appointed agents may, however, in an emergency use such devices or methods as are necessary for control of wild dogs or other wild animals when approved by the advisory council. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 32. 1955, c. 290, § 15.)

Effect of amendment.—The 1955 amendment added the above paragraph at the end of this section. As the rest of the sec-

tion was not changed by the amendment, it is not set out.

Hunting. Revocation of Hunting and Fishing Licenses.**Lobster Traps. Intoxication. Sunday Hunting.****Night Hunting, Etc. Silencers. Automatic
Firearms. Importing of Wild Birds
or Animals.**

Sec. 73. Hunting licenses for residents and nonresidents; fees.—No person shall hunt or have in possession wild birds, or parts thereof, or wild animals, or parts thereof, except in accordance with the following provisions: (1957, c. 392, § 13)

I. Any resident over 16 years of age and members of his immediate family over 16 years of age may hunt without a license on land to which they are legally entitled to possession, and on which they are actually domiciled and which land is used exclusively for agricultural purposes. (1953, c. 394, § 33. 1957, c. 392, § 14)

Stated in *State v. McKinnon*, 153 Me. 15,
133 A. (2d) 885.

II. Any resident over 16 years of age may hunt wild birds and animals provided he has first procured from the commissioner or his authorized agent a written license which shall be kept on the person while hunting or transporting birds, or parts thereof, and animals, or parts thereof, and which shall be exhibited to any warden, employee of this department or guide, upon request. (1953, c. 394, § 33. 1957, c. 392, § 15)

III. For the purpose of issuing licenses, the commissioner may appoint clerks of towns or such other agents as he deems necessary and shall determine the period during which they shall act.

The license may be issued to a resident by the clerk or agent in the town in which the applicant resides, or if domiciled in an unorganized territory, then by the clerk or agent in the nearest town, upon payment of a fee of \$2.75, of which 25¢ shall be retained by the town clerk or agent. The commissioner may appoint agents in unorganized towns for the purpose of issuing resident hunting licenses to the residents domiciled in that unorganized town.

A combination of hunting and fishing license may be issued on payment of \$5.25, 25¢ to be retained by the town clerk or agent.

Each agent shall forward to the commissioner on the 1st day of each calendar month all of the funds collected by him during the previous calendar month, together with a list of the persons and the kind of licenses issued to them. The funds received by the commissioner shall be deposited in the state treasury. Each agent shall be entitled to retain the sum of 25¢ for each license issued. (1945, c. 374, § 2. 1947, c. 355, § 5. 1949, c. 349, § 59. 1955, c. 153, § 4; c. 290, § 15-A. 1957, c. 392, § 16)

IV. Repealed by Public Laws 1963, c. 279, § 17.

V. Any nonresident over 12 years of age may hunt wild birds and animals provided he has first procured from the commissioner or his authorized agent a written license which shall be kept on the person while hunting or transporting birds, or parts thereof, and animals, or parts thereof, and which shall be exhibited to any warden, employee of this department or guide, upon request. Nonresident hunting licenses shall be of 2 classes: one class shall be issued upon the payment of \$10.25, which will license the holder to hunt wild birds or animals during the open season therefor, except deer; the other class shall be issued upon the payment of \$25.25, which will entitle the holder to hunt wild birds and animals including deer during the open season therefor. The agent issuing the license shall be allowed to retain 25¢ from the license fee. (1947, c. 35, § 6. 1949, c. 21. 1953, c. 394, § 34. 1955, c. 153, § 5. 1957, c. 392, § 17. 1961, c. 23.)

VII. Any nonresident between the ages of 12 and 15 years may buy a junior nonresident hunting license entitling him to hunt wild birds and animals during the open season therefor, except deer, upon payment of \$5.25. Any nonresident over the age of 12 years may purchase the \$25.25 license to hunt wild birds and animals, including deer; provided, however, that between the ages of 12 and 16, the application shall be accompanied by the written consent of his or her parent or guardian; and provided further, that such nonresident must be accompanied at all times while hunting by parent or guardian or an adult approved by parent or guardian.

Any resident between the ages of 10 and 16 years may hunt with firearms without a license, if accompanied at all times while hunting by a parent or guardian or by an adult approved by parent or guardian.

No resident under the age of 10 years and no nonresident under the age of 12 years may hunt wild birds or animals with firearms at any time. (1947, c. 355, § 8. 1953, c. 394, § 35. 1955, c. 290, § 16)

VIII. Wilful issuing of resident license to nonresident. It shall be unlawful for a town clerk to willfully issue any resident license to a person not a resident of the municipality in which the license is issued. (1953, c. 394, § 36. 1963, c. 279, § 18.)

X. All funds derived from the sale of licenses under the provisions of this chapter shall be used for the management, propagation and protection of all birds, animals, fish life, conservation education and other expenses incident to the administration of these functions.

Provided further, that if any of such funds are not expended during the year in which they were collected the unexpended balance shall not lapse, but shall be carried as a continuing account available for the purposes herein specified, until expended. [1947, c. 355, § 9. 1955, c. 290, § 17]. (R. S. c. 33. 1945, c. 83; c. 374, § 2. 1947, c. 99, § 1; c. 355, §§ 5, 6, 7, 8, 9. 1949, c. 21; c. 349, § 59. 1953, c. 394, §§ 33, 34, 35, 36. 1955, c. 153, §§ 4, 5; c. 290, §§ 15-A, 16, 17. 1957, c. 392, §§ 13-17. 1961, c. 23. 1963, c. 279, §§ 17, 18.)

Effect of amendments.—The first 1955 amendment, effective January 1, 1956, increased the license fees in the second and third paragraphs of subsection III and in subsection V. The second 1955 amendment again increased the fees in the subsection III, to the same amounts to which they had been raised by the first amendment. In subsection III the second 1955 amendment also rewrote the first paragraph, substituted “may” for “shall” near the beginning of the first sentence of the second paragraph and inserted in that sentence and in the third paragraph the words “or agent in” and “or agent.” The second 1955 amendment also rewrote subsection VII and the first paragraph of subsection X.

The 1957 amendment substituted “No person” for “No resident over 16 years of age and no nonresident over 12 years of age” in the introductory paragraph, inserted “over 16 years of age” in two

places in subsection I, and rewrote all of subsection II, re-enacted without change the second and third paragraphs of subsection III, and rewrote the first sentence of subsection V.

The 1961 amendment eliminated the former last sentence in subsection V, allowing one class of nonresident hunting license to be turned in for a credit on the purchase of the other.

The 1963 amendment eliminated former subsection IV. It also eliminated the former first sentence of subsection VIII, providing penalties for obtaining a license through fraud, misstatement or misrepresentation, and substituted “any resident license” for “a resident hunting license” in such subsection.

Only the introductory paragraph and the subsections changed by the amendments are set out.

Sec. 74. Hunting and fishing licenses; revocation.

Clerks of the district court and clerks of the superior courts, upon conviction of any person for violation of any of the provisions of this chapter, shall immediately forward to the commissioner a transcript of the records of said proceedings with a record of any appeal entered on any judgment or sentence of said

court. (R. S. c. 33. 1945, c. 374, § 2. 1949, cc. 123, 164. 1951, c. 268. 1953, c. 394, § 37. 1963, c. 402, § 73.)

Effect of amendment. — The 1963 amendment substituted "Clerks of the district court" for "Trial justices, judges or recorders of municipal courts" at the beginning of the last paragraph.

As the rest of the section was not affected by the amendment, only the last paragraph is set out.

Application of amending act.—See note to § 24.

Sec. 77. Night hunting.—It shall be unlawful to hunt wild birds, including migratory game birds, in this state from sunset to $\frac{1}{2}$ hour before sunrise of the following morning.

It shall be unlawful to hunt wild animals from $\frac{1}{2}$ hour after sunset until $\frac{1}{2}$ hour before sunrise of the following morning, except skunks and raccoons. as provided in section 113. For the purpose of this section, the time shall be that which is recognized as legal in the state of Maine.

No person shall have in his possession at any time any wild bird or wild animal, or part thereof, taken in violation of this section except as provided in section 113. Any person convicted of a violation under this section shall be punished for the first offense by a fine of not less than \$200 and costs nor more than \$400 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 30 days in jail, at the discretion of the court; and for a 2nd or subsequent offense, by a fine of not less than \$400 and costs nor more than \$800 and costs, and 30 days in jail, which fine, costs and jail sentence shall not be suspended, and an additional penalty of not more than 60 days in jail, at the discretion of the court. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 36. 1949, c. 250. 1961, c. 167.)

Effect of amendment.—The 1961 amendment inserted "including migratory game birds" in the first paragraph, inserted "wild bird or" preceding "wild animal" near the beginning of the last paragraph and made other minor changes in that paragraph.

The time of day, etc.

The essential part of the offense is the time of day. State v. Allen, 151 Me. 486, 121 A. (2d) 342.

Necessary elements of offense.—There are certain elements necessary to night hunting, it must be nighttime as distinguished from daytime, and within the times set by statute, there must be present and available certain instrumentalities, that is, a light, a gun and ammunition and back of this a purpose to search,

find and possess the animal. If mere observation, all may be left out except the light. Intent or purpose is evidenced by the acts of the offender. State v. Allen, 151 Me. 486, 121 A. (2d) 342.

Allegations as to time of offense held sufficient.—See State v. Allen, 151 Me. 486, 121 A. (2d) 342.

Sufficiency of evidence.—Evidence, direct and circumstantial, held sufficient to prove guilt of night hunting. State v. Vicniere, 152 Me. 293, 128 A. (2d) 851.

Circumstantial evidence held sufficient to sustain conviction.—See State v. Allen, 151 Me. 486, 121 A. (2d) 342.

Applied in State v. Fleming, 155 Me. 342, 154 A. (2d) 772.

Quoted in State v. Whitehead, 151 Me. 135, 116 A. (2d) 618.

Sec. 78. Hunting from automobiles.—It shall be unlawful for any person to hunt any wild bird or wild animal at any time from any motor vehicle or trailer, or by aid or use of any light or lights carried thereon, therein or attached thereto. It shall be unlawful for any person to have in possession, at any time, any wild bird or wild animal, or part thereof, taken in violation of this section. It shall be unlawful for any person, excepting a law enforcement officer while in the line of duty, to have in or on a motor vehicle or trailer any rifle or shotgun with a cartridge or shell in the chamber, magazine, clip or cylinder. No person, except a law enforcement officer in the line of duty or a person having a valid permit to carry a concealed weapon, may have in or on any motor vehicle or trailer any loaded pistol or revolver. For the purpose of this section a motor boat shall not be considered a motor vehicle.

Notwithstanding the provisions of this section, paraplegics may hunt from

motor vehicles which remain stationary. (R. S. c. 33. 1945, c. 374, § 2. 1951, c. 309. 1953, c. 394, § 39. 1959, c. 333, § 8. 1961, c. 2.)

Effect of amendments. — The 1959 amendment eliminated “with amendment rewrote the first paragraph a barrel length of over 4 inches” at the end and added the second paragraph to this of the fourth sentence. section.

Sec. 80. Vehicles required to stop upon signal.—It shall be unlawful for the operator of any vehicle to immediately fail or refuse to stop any such vehicle or conveyance of any kind, upon request or signal of any officer whose duty it is to enforce the game laws when such officer is in uniform.

Whoever violates any provision of this section shall be punished by a fine of not less than \$100, nor more than \$400, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (R. S. c. 33. 1945, c. 374, 2. 1953, c. 394, § 41. 1955, c. 290, § 18.)

Effect of amendment.—The 1955 amendment deleted the word “motor” before the word “vehicle” in line two.

Sec. 82. Repealed by Public Laws 1955, c. 406, § 2; Public Laws 1957, c. 392, § 18.

Cross reference.—See c. 36, § 94-A, for present provisions re kindling out-of-door fires.

Sec. 84. Wild birds or wild animals not imported without written permission of commissioner; duties of importers of pheasants or pheasant eggs.

The commissioner may grant permits to import live or dressed pheasants. No pheasants, either alive or dead, shall be imported without the written permission of the commissioner. Importers shall, when requesting a permit, provide the commissioner with information as to the number of pheasants to be imported, the name and address of the seller, and whether or not said birds are live or dressed. Importers of live pheasants or pheasant eggs shall furnish the commissioner with a statement from an approved veterinarian, the state department of agriculture or the conservation department of the state from which the pheasants are imported, certifying that they are from flocks which have been tested for pullorum and typhoid, show no evidence of tuberculosis, or other infectious or contagious disease, and have not been exposed to such disease during the 6 months prior to importation. Such statement shall accompany each request for permission to import live pheasants.

Upon receipt of shipment, importers of pheasants shall attach securely to each bird a metallic seal, the type and design of which shall be designated by the commissioner. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the commissioner at a cost of 5¢ each. (R. S. c. 33. 1945, c. 374, § 2. 1957, c. 392, § 19.)

Effect of amendment. — The 1957 amendment added the two paragraphs appearing above at the end of this section. As the first paragraph was not changed by the amendment, it is not set out.

Hunting of Game Birds. Hunting Waterfowl.

Sec. 85. Federal regulation on migratory game birds to govern; authority of commissioner to promulgate more restrictive regulations; open season on partridge and pheasants.—No person shall hunt or have in his possession any eagle.

There shall be a closed season on partridge or grouse and pheasant from November 16th to September 30th of the following year, both days inclusive. No

person shall at any time buy or sell any partridge, grouse or pheasant. No person shall have in possession any partridge or pheasants taken in closed season.

During the open season, it shall be unlawful for any person to shoot, take, kill or have in possession more than 4 partridge and more than 2 pheasants taken, shot or killed in any one day, or to have more than 8 partridge and more than 4 pheasants in possession at any one time.

Except as provided in this section, it shall be unlawful for any person to hunt, capture, kill, take, possess, transport, buy or sell any migratory game bird at any time. It shall not be deemed to be a violation of this chapter to hunt, capture, kill, take, possess, transport, buy or sell any migratory game bird or part thereof at the times, in the manner and numbers, and by the means specifically permitted by regulations adopted and approved pursuant to the provisions of the Federal Migratory Bird Treaty Act (Act of Congress approved July 3, 1918.)

If, in the opinion of the commissioner, it is in the best interests of the migratory bird population in the state to have a shorter season, fewer shooting hours or a smaller bag limit than the federal regulations permit, the commissioner may, after public hearing, promulgate such regulations as he considers to be in the best interests of the migratory bird population. Notice of the hearing to be held and the time and place thereof shall be by publication once a week for 2 successive weeks prior to the hearing in newspapers having a state-wide circulation. If, as a result of the hearing, the commissioner promulgates any regulations, they shall be reduced to writing and published once a week for 2 successive weeks in newspapers having state-wide circulation. The commissioner shall file a certified copy of the regulations with the clerks of the superior courts in the 16 counties of the state and with the secretary of state. (R. S. c. 33. 1945, c. 158; c. 374, § 2. 1947, c. 236; c. 311, §§ 1, 2. 1949, cc. 74, 120. 1951, c. 217. 1953, c. 252; c. 394, § 44. 1955, c. 209, §§ 1, 2; c. 241; c. 290, § 19. 1957, c. 392, §§ 20, 21. 1959, c. 333, §§ 9, 10. 1963, c. 279, § 19.)

Effect of amendments.—This section was amended three times by the Public Laws of 1955. Chapter 209 eliminated provisions in the second paragraph for a bag limit on partridge and pheasant and added the present third paragraph. Chapter 241, which set out the entire section without giving effect to c. 209, substituted the words "sharp-tailed grouse or bob-white quail" for the words "or capercaillie, cock of the woods or any black game" at the end of the first paragraph, and deleted the former third paragraph, which provided for an open season and bag limit on woodcock. Chapter 290, § 19, which made no mention of either of the earlier amendments, substituted the words "sharp-tailed grouse, chukar partridge and bob-white quail" for the words "or capercaillie, cock of the woods or any black game" at the end of the first paragraph, and again deleted the former third paragraph.

The 1957 amendment increased the number of pheasants permitted in possession at any one time from 2 to 4 in the third paragraph, made the fourth paragraph applicable also to transportation of migratory game birds, added the last paragraph, and made other minor changes in the section.

This section was amended twice by P. L. 1959, c. 333. Section 1 of P. L. 1959, c. 333, deleted all of the language after the word "eagle" in the first sentence. Section 2 repealed the third sentence of the second paragraph, providing for a closed season on pheasant in part of Penobscot county.

The 1963 amendment substituted "and more than" for "and not more than" twice in the present third paragraph and also substituted "or to have more than" for "and not more than" in such paragraph.

All of the amendments have been given effect in the section as set out above.

Sec. 85-A. Repealed by Public Laws 1959, c. 333, § 11.

Sec. 86. Nets, traps, crossbow, snares and guns larger than 10-gauge not used.—No person shall hunt with a net, trap, snare or contrivance other than the usual method of shooting with a firearm not larger than number 10-gauge or by shooting with a long bow and arrow, any wild bird or animal of any species protected by law. It shall be unlawful for any person to hunt or kill any wild bird or animal with a crossbow. Any prohibited implements or

devices used in violation of the provisions of this section shall be forfeited to the state. The user of such prohibited implement or device shall be subject to the penalties of section 139. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 46. 1961, c. 53, §§ 1, 2.)

Effect of amendment.—The 1961 amendment deleted “crossbow” near the beginning of this section, inserted “wild” near

the end of the first sentence and added the present second sentence.

Sec. 88. Other than game birds protected; “game birds” and “migratory game birds” defined.—No person shall hunt, kill or have in his possession, living or dead, any wild bird except as provided in section 85. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale; nor shall any person take or needlessly destroy the nest or eggs of any wild bird nor have such nest or eggs in possession. The English or European house sparrow, the common crow, the great-horned owl, kingfishers, and cormorants or shag, and the European starling are not included among the birds therein protected; provided, however, nothing herein contained shall be deemed to make it unlawful for the owner or occupant of land to kill hawks or owls when in the act of destroying poultry; and for the purpose of this chapter the partridge, grouse and pheasant, only, shall be considered game birds, and the following, only, shall be considered migratory game birds: anatidae or waterfowl, including brant, wild ducks, geese and swans; gruidae or cranes, including little brown, sandhill and whooping cranes; rallidae or rails, including coots, gallinules, and sora and other rails; limicolae or shorebirds, including avocets, curlew, dowitchers, dogwits, knots, oyster catchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs; columbidae or pigeons, including doves and wild pigeons. Nothing in this section, however, shall be construed to affect in any way the protection of game birds or migratory game birds as provided in section 85. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 47. 1955, c. 290, § 20; c. 342. 1959, c. 333, § 12. 1963, c. 279, § 20.)

Effect of amendments.—The first 1955 amendment added the exception clause at the end of the first sentence. The second 1955 amendment deleted from the third sentence “hawks” and “owls” and inserted “great-horned owl” and “European starling.” It also inserted the proviso relating to killing hawks or owls.

The 1959 amendment added the words “hunt, kill or” after the word “shall” and

before the word “have” in the first sentence of this section.

The 1963 amendment substituted “except as provided in section 85” for “other than a game bird or a migratory game bird, except under a permit issued in accordance with the provisions of the Federal Migratory Bird Treaty Act (Act of Congress approved July 3, 1918)” at the end of the first sentence.

Sec. 89. Decoys and blinds in Merrymeeting bay; speed of power boats.—The provisions of this and the 2 following paragraphs shall apply to the waters of Kennebec river, known as Merrymeeting bay, bounded as follows: From the high tension wires at Chop’s point to the first dam on the Androscoggin river, to the first road bridge on the Muddy, Cathance, Abbagadasset and Eastern rivers, and the Richmond-Dresden bridge on the Kennebec river, being in the counties of Cumberland, Sagadahoc and Lincoln.

No artificial cover which is termed stationary blind, or parts thereof, used for hunting purposes shall be left or allowed to remain in the waters of Merrymeeting bay, as described above, between 1 hour after legal shooting time and 1 hour before legal shooting time.

No duck decoys shall be allowed to remain in waters of Merrymeeting bay at any time during the period from one hour after legal shooting time until one hour before legal shooting time.

No power boat may be operated in Merrymeeting bay at a speed in excess of 10 miles per hour except within the confines of the buoyed channels. (R. S. c.

33. 1945, c. 256; c. 374, § 2. 1953, c. 394, § 48. 1957, c. 392, § 22. 1959, c. 233, §§ 1-3. 1961, c. 123. 1963, c. 279, § 21.)

Effect of amendments. — The 1957 amendment added an exception at the end of the former last paragraph.

This section was amended three times by P. L. 1959, c. 233. Section 1 of P. L. 1959, c. 233, repealed the first and last paragraphs. Section 2 substituted the figure "2" for the figure "3" in the present first paragraph. Section 3 added the word "duck"

after the word "No" and before the word "decoys" at the beginning of the present third paragraph.

The 1961 amendment added the present last paragraph.

The 1963 amendment inserted "at any time during the period" in the third paragraph and made other minor changes therein.

Hunting of Moose, Caribou, Deer and Other Wild Animals. Use of Airplane Prohibited. Crop and Orchard Damage. Motor Vehicle Damage. Dogs Running at Large. Illegal Devices for Hunters and Fishermen. Dogs May Be Killed. Transportation and Sale of Deer. Transportation of Fish, Game and Fur-Bearing Animals. Registration Stations for Bear Killed. Closed Season on Rabbits, Etc.

Sec. 90. Hunting of moose and caribou.

The object of this section, etc.

In accord with original. See *State v. Gaudin*, 152 Me. 13, 120 A. (2d) 823.

Possession of moose or parts thereof.—

Where game wardens came upon dead carcass of moose and immediately set up vigil in the bushes nearby for the purpose of attempting to apprehend the person who killed the moose or anyone who took possession thereof, the wardens did not have "possession" of the carcass so as to prohibit "possession" by respondent who

entered the woods several hours later, cut off a four quarter and started dragging it away. Thus respondent's claim that "the game wardens had absolute and positive control over the carcass of the moose" and that respondent was not in "possession" because he had "no more control than what the game wardens cared to impart to him" was not well founded. *State v. Gaudin*, 152 Me. 13, 120 A. (2d) 823, discussing the meaning of the word "possession" as used in this section.

Sec. 91. Closed time on deer in certain counties.—For the purposes of regulating open seasons on deer, the state shall be divided into the following 4 zones:

Northern Zone: North and east of a line beginning on route 201 at the Canadian border; thence southeasterly along said route 201 to Caratunk; thence easterly and northeasterly along the Appalachian Trail to a point where the Appalachian Trail intersects the Baxter State Park road; thence southeasterly along Baxter State Park road to Millinocket; thence southeasterly along route 157 to route 2 at Mattawamkeag; thence southeasterly along route 2 to Lincoln; thence easterly along route 6 to the Canadian border.

Central Zone: The area within the following described territory: Beginning on route 201 at the Canadian border; thence southeasterly along said route 201 to Caratunk; thence easterly and northeasterly along the Appalachian Trail to a point where the Appalachian Trail intersects the Baxter State Park road; thence southeasterly along Baxter State Park road to Millinocket; thence southeasterly along route 157 to route 2 at Mattawamkeag; thence southwesterly along route 2 to Bangor; thence westerly along route 2 to Farmington; thence northwesterly along route 4 to Rangeley; thence westerly along route 16 to the New Hampshire border.

Southeastern Zone: The area within the following described territory: Beginning at the Canadian border at Vanceboro; thence westerly along route 6 to Lincoln; thence southerly along route 2 to Bangor; thence southerly along easterly bank of the Penobscot river and the county line between Waldo and Hancock counties to the ocean, including the islands along the coast.

Southwestern Zone: All the remaining areas of the state, including the islands along the coast.

There shall be an open season on deer in each calendar year in the zones described above as follows:

Northern Zone: October 15th to November 30th.

Central Zone: October 21st to November 30th.

Southeastern Zone: November 1st to December 5th.

Southwestern Zone: The month of November.

There shall be a continual closed season on deer on Cross Island and Scotch Island, which last mentioned places are in Washington county, and in the town of Isle au Haut, and the islands within the confines of the town of Isle au Haut, which last mentioned town is in the county of Knox, and in game sanctuaries which have been established by law where the closed season shall be perpetual.

There shall be a continual closed season on deer on all of Swan Island in the town of Swan's Island, located in the county of Hancock, except that it shall be lawful to hunt with bow and arrow in accordance with sections 108 to 112 during the month of October and the month of November of each calendar year.

It shall be unlawful for any person to hunt deer after he has killed one during the open season of that calendar year.

There shall be a continual closed season on deer in the town of Islesboro, located in the county of Waldo, except that it shall be lawful to hunt with bow and arrow in accordance with sections 108 to 112 during the month of October and the month of November of each calendar year.

There shall be a continual closed season on deer on the whole of Cranberry Isles, Hancock county.

There shall be a continual closed season on deer on the whole of Long Island in Long Island plantation, located in the county of Hancock, until November 1, 1960.

There shall be a continual closed season on deer on the whole of Long Island in Long Island plantation, Hancock county.

There shall be an open season on deer in the town of Vinalhaven, and the islands within the confines of the town of Vinalhaven, to conform with the open season on deer for Knox county. The use of any firearm other than a shotgun is prohibited.

During the closed seasons, except as hereinafter provided, it shall be unlawful to hunt any deer or have in possession any part thereof; and except as hereinafter provided, no person shall have in possession more than 1 deer or part thereof during any open season.

A person lawfully killing a deer during the open season may have the same in his possession during a closed season provided the deer has been properly registered in accordance with the provisions of section 100.

Any person convicted of violating any of the provisions of this section shall be punished by a fine of not less than \$100 and costs, which fine and costs shall not be suspended, or by imprisonment for not more than 90 days, or by both. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 343. 1949, cc. 204, 236, 252. 1951, cc. 12, 36, 107, 194. 1953, c. 125; c. 394, §§ 50, 51. 1955, cc. 6, 7, 8, 112, 238. 1957, cc. 13, 69, 328; c. 392, §§ 23, 24; c. 429, § 45. 1959, c. 226, § 1; c. 300, § 2; c. 313. 1961, cc. 50, 86, 349. 1963, c. 9, §§ 1, 2; c. 73, § 1; c. 285, § 1.)

Effect of amendments. — This section was amended five times by the Public Laws of 1955. Chapter 6 substituted the words "in the town of Isle au Haut, and the islands within the confines of the town of Isle au Haut, which last mentioned town" for the words "on the Isle au Haut, which last mentioned island" in the third paragraph. Chapter 7 substituted "1957"

for "1955" in the sixth (now seventh) paragraph, c. 8 substituted "1958" for "1956" in the seventh (now eighth) paragraph, and c. 112 substituted "1962" for "1957" in the ninth (now tenth) paragraph. Chapter 238 deleted from the third paragraph the references to the towns of Deer Isle and Stonington.

This section was amended five times in

1957. Chapter 13 changed the season provided for in the seventh (now eighth) paragraph from "November 1st, 1958" to "November 1st, 1960". Chapter 69 deleted the words "until July 1, 1957" which formerly appeared in the sixth (now seventh) paragraph. Chapter 328 made the continual closed season on deer provided for in the third paragraph applicable also in the towns of Deer Isle and Stonington; however, chapter 392 re-enacted the third paragraph as it appeared prior to its amendment by chapter 328. Chapter 391 also added the provisions as to costs and as to imprisonment in the last paragraph of this section. Chapter 429, which became effective on October 31, 1957, re-enacted the third paragraph of this section, giving effect to all previous amendments.

This section was amended three times by the 1959 legislature. Section 1 of chapter 226 rewrote the first two paragraphs, providing in section 2 thereof that such act shall take effect on January 1, 1960. Section 2 of chapter 300 rewrote the third paragraph. Chapter 313 deleted "until July 1st, 1959" from the fifth (now sixth) para-

graph and added the exception providing a bow and arrow season.

Chapter 50, P. L. 1961, inserted the eighth (now ninth) paragraph. Chapter 86, P. L. 1961, rewrote the ninth (now tenth) paragraph, which formerly provided a continual closed season until July 1, 1962. Chapter 349, P. L. 1961, substituted "November 1st to December 5th" for "October 27th to November 30th" as to Zone 2 in the second paragraph.

This section was amended three times by the Public Laws of 1963. Chapter 9 deleted from the third paragraph the reference to the town of Swan's Island and inserted the present fourth paragraph. Chapter 73, subject to referendum in the towns of Mount Desert, Bar Harbor, Southwest Harbor and Tremont at their annual town meetings in 1964, deleted the reference to the island of Mount Desert in the third paragraph. Chapter 285 rewrote the first two paragraphs, dividing the state into Northern, Central, Southeastern and Southwestern Zones instead of Zones 1, 2 and 3.

Sec. 92. Horning or driving deer.—It shall be unlawful to drive deer by use of horns, whistles or other noisemaking devices. It shall be unlawful for more than 6 persons to participate in a joint hunt for deer, wherein an effort is made to drive deer. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 164; c. 394, § 52. 1961, c. 225.)

Effect of amendment.—The 1961 amendment substituted "6" for "8" in the second sentence of this section.

Sec. 94. Crop and orchard damage.—

I. The cultivator, owner, mortgagee or keeper of any orchard or growing crop, including legumes, except grass, or the owner or occupier of land whereon said crops or orchard are located, may take or kill deer or other protected wild animals, except beaver or birds, night or day, on said land where substantial damage is being done by said deer or other protected wild animals to said orchard or crop. Such person may authorize a member of his immediate family or someone employed by him to take or kill said deer or other protected wild animal. Such person, whenever he employs someone not domiciled on said land where the damage is being done to take or kill said deer or other protected wild animal, shall apply to the game warden in charge of the district in which the crops or orchard is located for permission to employ such person or persons and shall receive permission from said game warden in writing.

A person by whom, or under whose direction, such deer or other protected wild animal is wounded or killed shall within 12 hours report all the facts relative to such act to a fish and game warden, stating the time and place of such wounding or killing. Such person who kills such deer or other protected wild animal shall immediately properly dress the carcass or carcasses and care for the meat. The fish and game warden shall immediately investigate the case and if he is satisfied that the deer or other protected wild animal was taken as provided in this subsection, he shall give such person a certificate of his finding in the matter. Such certificate shall entitle such per-

son to the ownership of the carcass or carcasses, to be possessed and consumed only within the immediate family of the person to whom certificate was given. (1945, c. 316, § 1. 1951, c. 342. 1957, c. 392, § 25)

Stated in State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

II. It shall be unlawful to place salt or any other bait or food in any place for the purpose of enticing deer thereto. (1957, c. 392, § 26)

III. Any dead deer found not having a tag attached thereto identifying the owner thereof shall be the property of the state and shall be seized by the first warden who finds said carcass, to be disposed of by direction of the commissioner. (1957, c. 392, § 26)

IV. Whenever deer are doing damage to orchards and crops, including legumes, except grass, the department shall furnish to the owner or agent of such orchards and crops suitable repellents without cost to such owner or agent; and the commissioner may follow such other good conservation practice as will alleviate such damage. No claims for crop or orchard damage by deer or other protected animals or birds shall be paid by the state from any source or fund. (1951, c. 342. 1957, c. 392, § 26)

V. Whenever the commissioner deems it impossible to keep deer from doing damage to young orchards, he may enter into an agreement with the owner of such orchard whereby the department will assume $\frac{1}{2}$ the cost of fencing such orchard. [1945, c. 316, § 2. 1951, c. 342. 1957, c. 392, § 26]. (R. S. c. 33. 1945, c. 316, §§ 1, 2; c. 374, § 2. 1949, c. 397. 1951, c. 342. 1957, c. 392, §§ 25, 26.)

Effect of amendment. — The 1957 amendment deleted former subsections I and II and inserted the present subsection I in lieu thereof, and renumbered former subsections III to VI to appear as subsections II to V, respectively.

Justification for killing deer in close time.—Under this section, if one who had killed a deer in close time, seeks to justify his act, he must show by a preponderance of evidence that he owned or occupied the land on which the deer was killed, and that "substantial damage" was being done by

the deer to a fruit tree or a crop (except grass) at the time. If the respondent was not the owner or occupant of the land, he must show authorization as a member of the owner's or occupant's family, or an employee. The important thing is, what was the deer in the act of doing when killed. If not in the act of doing substantial damage there is no justification. *State v. Whitehead*, 151 Me. 135, 116 A. (2d) 618, decided prior to the 1957 amendment.

Sec. 96. Disposal of deer.—The resident owner of every motor vehicle which has been substantially damaged by collision with a deer shall, within 24 hours thereafter, report the accident to a game warden. The warden shall investigate and, if he finds the damage has been done as alleged, he shall give a certificate to such person entitling such person to the ownership of the carcass to be possessed and consumed only within the immediate family of the owner of said vehicle. (1953, c. 145. 1955, c. 158.)

Effect of amendment.—The 1955 amendment rewrote this section.

Sec. 96-A. Dogs running at large in area frequented by deer. — It shall be unlawful for any dog to roam-at-large in any area frequented by deer from February 1st to April 30th of each calendar year.

The owner or keeper of said dog found roaming-at-large shall be punished by a fine of not less than \$10 nor more than \$50. (1957, c. 327. 1959, c. 333, § 13. 1963, c. 279, § 22.)

Effect of amendments. — The 1959 amendment changed the date from March 31st to April 30th, and deleted the words "both dates inclusive", formerly appearing after the word "year" and before the word

"it" in the first sentence of this section.

Prior to the 1963 amendment, which rewrote this section, it was unlawful for any owner or keeper to permit a dog to roam-at-large in any area frequented by deer.

Sec. 97-A. Use of artificial lights for lighting game.—The use of artificial lights between $\frac{1}{2}$ hour after sunset and $\frac{1}{2}$ hour before sunrise to illuminate, jack, locate, attempt to locate or show up wild birds or animals shall be unlawful from October 12th to December 5th, except as provided in section 94, and section 113, subsection IV. (1961, c. 194. 1963, c. 279, § 23.)

Effect of amendment. — The 1963 season on deer" near the end of this section. amendment substituted "from October 12th to December 5th" for "during open

Sec. 98. Dogs killed for hunting moose, caribou, deer or elk, or worrying domestic animals.—It is unlawful for any dog to hunt, chase, kill, wound or pursue any moose, caribou, deer or elk or any other wild animal in closed season and no person shall permit any dog owned or kept by him to hunt, chase, kill, wound or pursue any moose, caribou, deer or elk at any time or any other wild animal in closed season.

Any officer may kill any dog which he finds hunting, chasing, killing, wounding or pursuing any moose, caribou, deer or elk at any time or any other wild animal in closed season or worrying, wounding or killing any domestic animal, when said dog is outside of the enclosure or immediate care of its owner or keeper.

Any person having evidence of any dog hunting, chasing, killing, wounding or pursuing moose, caribou, deer or elk at any time or any other wild animal in closed season may present said evidence to the commissioner or any game warden who shall give notice in writing to the owner or keeper of said dog stating the acts committed by said dog. The owner or keeper of any dog so notified shall not permit any dog mentioned in said notice to leave the immediate control of said owner or keeper under the penalty as provided in section 139. After the owner or keeper of the dog has received written notice that his dog has committed any act prohibited by this section, it shall be lawful for anyone to kill the dog when found committing any of the acts prohibited herein.

Any owner of domestic animals or enclosed poultry, or any member of his family, or any person to whom is entrusted the custody of any domestic animals or enclosed poultry shall have a right to kill any dog killing or attacking any of said domestic animals or enclosed poultry.

Any person having any evidence of any dog hunting, chasing, killing, wounding or pursuing any moose, caribou, deer or elk, or any other wild animal in closed season, or of any dog kept and used for the purpose, or of any dog wounding, killing or attacking any domestic animal or fowl, or any fur-bearing animals legally in captivity, when said dog is outside of the enclosure or immediate care of his owner or keeper, may present said evidence to the proper officer of the district court, which said officer shall have power to issue a warrant against the owner of said dog, ordering him to appear before said court and show cause why said dog should not be killed. Upon hearing the evidence in said case said court may order said dog killed by any officer. The costs of prosecution shall be paid by the owner or keeper of said dog.

Any person may lawfully kill a dog which assaults him or another person. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 54. 1963, c. 279, § 24; c. 402, § 74.)

Effect of amendments. — The first 1963 amendment inserted the words "or kept" following the word "owned" near the middle of the first paragraph and inserted the words "or keeper" following the word "owner" near the beginning of the last sentence of the third paragraph.

The second 1963 amendment divided the former first sentence of the fifth paragraph into two sentences, substituted "the proper

officer of the district court, which said officer" for "any trial justice or judge of any municipal court, which said trial justice or judge" near the middle of the present first sentence and substituted "said court" for "him" near the end of such sentence.

Application of second 1963 amending act.—See note to § 24.

Sec. 98-A. Registration and transportation of deer.—

I. Registration stations. The commissioner shall establish deer registration stations for the purpose of registering all deer killed. Said stations shall be in charge of an agent designated by the commission and a list of the same shall be published in one or more daily newspapers of the state. Said agents shall register each and every deer legally presented for registration, and shall tag each deer in the manner as directed and with the materials furnished by the commissioner. Said agent shall receive from the person registering a deer the sum of 25¢ for each such tag to be retained by him.

II. Registration and tags.

A. No person shall at any time in any manner move or transport any deer, or part thereof, unless open to view and there is securely attached thereto a tag bearing the name and address of the person who killed said deer and said deer shall be accompanied by him while being moved or transported, except as otherwise provided in this chapter.

B. All deer killed shall be presented for registration at the first open deer registration station on the route taken by the person who killed said deer and said deer shall be registered in his name.

C. No person shall present a deer for registration or allow to be registered in his name any deer which he himself did not kill.

III. Deer at home or left in woods.

A. No person shall keep a deer at his home, or at any place of storage, except a deer registration station, more than 12 hours unless said deer has been legally registered.

B. If any person leaves the woods without taking a deer which he has killed with him, he shall notify a warden within 12 hours as to the location of the deer and the circumstances necessitating his leaving the same in the woods.

IV. Possession without registration. No person shall have in possession at any time any parts of a deer which has not been legally registered as provided in this section, except in accordance with sections 94 and 96.

V. Giving deer away; labels. It shall be lawful for the owner of any legally registered deer to give away not to exceed $\frac{1}{2}$ of said deer. Notwithstanding subsection II, paragraph A, no person shall have in his possession any part or parts of a deer given to him unless each separate part is plainly labeled with the name and address of the person who registered the deer and the name and address of the person to whom it was given and if said part be transported by any 3rd party that the name and address of the party transporting the same be affixed thereto. This subsection shall not apply to any deer or parts of deer being transported by a Maine licensed transportation company, including common carriers, in accordance with other provisions of this chapter.

VI. Transportation within state. Any resident of this state, who has legally killed and registered a deer may have said deer transported within the state, without accompanying the same, by purchasing a deer transportation tag which shall be attached to said deer while being transported. This deer transportation tag shall cost \$2.25, 25¢ to be retained by the issuing agent.

VII. Transportation beyond state. Any resident of this state, who has legally killed and registered a deer may transport said deer or have the same transported beyond the boundaries of this state by purchasing a deer transportation tag which shall be attached to said deer while being transported. This deer transportation tag shall cost \$20.25, 25¢ to be retained by the issuing agent, except that no fee shall be required of any resident of this state who is serving in the armed forces of the United States.

VIII. Nonresident. Any nonresident who has legally killed and registered a deer may have said deer transported beyond the boundaries of this state under the following condition:

A. Said deer or parts thereof may be transported by a Maine licensed transportation company, including common carriers;

B. Said deer or parts thereof may be transported by other than a Maine licensed transportation company, including common carriers, when accompanied by a nonresident transportation permit which may be obtained by the licensee from an inland fish and game warden in whose district the deer was killed, or from any inland fish and game warden supervisor.

IX. Printing on nonresident license. There shall be printed upon the back of the deer coupon portion of a nonresident license, which shall be attached to each deer so transported, the following words: THIS DEER WAS SHOT IN THE STATE OF MAINE. The first 8 words shall be printed in 18-point caps and the word "MAINE" in 96-point Gothic type.

X. Application. Except as provided in this section, no person shall transport or attempt to transport any deer or parts thereof beyond the limits of this state. (1963, c. 177, § 1; c. 414, § 12-B.)

Effect of amendment. — The 1963 amendment added the fourth sentence to subsection I.

Secs. 99, 100. Repealed by Public Laws 1963, c. 177, § 2.

Editor's note.—The repealed sections were amended by P. L. 1959, c. 333, § 14, and P. L. 1963, c. 198 and c. 414, § 12-C. However, P. L. 1963, c. 198, was repealed by P. L. 1963, c. 414, § 12-D.

Elements of crime of leaving deer in woods.—In a prosecution for leaving the woods without taking a killed deer, the state must offer evidence with respect to each element of the crime, namely (1) the killing of a deer, (2) leaving the woods without taking the deer, and (3) notifica-

tion in writing to a warden within 12 hours after leaving the woods, etc. Failure of proof relative to all or any one of the requisite elements is fatal and will not warrant a conviction. *State v. McPhee*, 151 Me. 62, 115 A. (2d) 498.

Burden of proving notice.—If the time of leaving the woods is established, the burden of proving that notice is given within the twelve-hour period is upon the defendant. *State v. McPhee*, 151 Me. 62, 115 A. (2d) 498.

Secs. 102, 103. Repealed by Public Laws 1963, c. 177, § 2.

Sec. 105. Fish, game and fur-bearing animals; transportation of, by aircraft.—The pilot of any aircraft, other than those of regular transport lines, shall not transport any fish, game, fur-bearing animals or parts thereof by air until he has obtained from the commissioner a permit to do so and each permit so issued shall expire December 31st of the calendar year issued.

Whoever shall transport, attempt to transport or offer for transportation by aircraft any fish, game, fur-bearing animals or parts thereof shall, as a condition of transporting such fish, game, fur-bearing animals or parts thereof, have such fish, game, fur-bearing animals or parts thereof open to view to the pilot whenever the pilot may request that such fish, game, fur-bearing animals or parts thereof be subject to inspection by him. No pilot shall knowingly and willfully transport any fish, game, fur-bearing animals or parts thereof taken in violation of any provision of this chapter.

Whoever violates any provision of this section shall be punished as set forth in section 139 and in addition thereto all licenses or permits issued by the department may be revoked for one year. (R. S. c. 33. 1945, c. 374, § 2. 1949, c. 162. 1951, c. 284. 1955, c. 400. 1957, c. 89.)

Effect of amendment. — The 1957 amendment rewrote this section.

Sec. 106. Closed time on wild hares and rabbits; transportation of.—There shall be a closed season on wild hares or rabbits from the 1st day of March to the 30th day of the following September, except in the counties of Franklin, Oxford, Kennebec, Hancock, Washington, Knox, Somerset, Lincoln, Penobscot,

Piscataquis and Aroostook, where there shall be a closed season from the 1st day of April to the 30th day of the following September.

During the open season it shall be unlawful for any person to shoot, take, kill or have in possession more than 4 rabbits taken, shot or killed in any one day and not more than 8 rabbits so shot or killed in possession at any one time.

No person shall set or use any snares or traps or use any other device in the hunting of wild hares or rabbits or hunt the same in any except the ordinary method of shooting with guns or long bow and arrow; provided, however, that it shall be lawful at any time for the commissioner to take and transport live hares or rabbits by purchasing live hares or rabbits from local trappers who may take the hares or rabbits by box traps for this purpose throughout the several counties of the state, whenever he may deem it necessary for the proper distribution and conservation of said animals.

It shall be unlawful for any person or corporation to transport or offer for transportation at any time any wild hares or rabbits destined beyond the limits of the state.

The provisions of this section shall not be construed to prohibit the holder of a nonresident hunting license from transporting to his home dead wild hares or rabbits which he has legally killed by virtue of his said nonresident hunting license.

It shall be unlawful for any person to have in possession or transport at any time any wild hares or rabbits taken during the closed season or by any method or with any device prohibited by this section.

It shall be unlawful for any person to buy, sell or offer for sale any wild hares or wild rabbits.

The provisions of this section shall not apply to the propagation of wild hares or rabbits on islands surrounded by open salt water all year.

It shall be unlawful to hunt, pursue, shoot at, take, catch or kill any wild rabbit or snowshoe hare, so called, on Great Chebeague Island, so called, an island surrounded by the waters of Casco bay and situated in the town of Cumberland, in the county of Cumberland, from April 1, 1959 to September 30, 1961. It shall be unlawful for any person to have in possession at any time any wild rabbit or snowshoe hare, so called, taken in violation of this section.

Whoever violates this section shall be punished by a fine of not less than \$50 or by imprisonment for 30 days, or by both. (R. S. c. 33. 1945, c. 374, § 2. 1949, c. 398. 1951, c. 354. 1953, c. 26, § 2; c. 394, § 61. 1955, cc. 102, 124. 1957, c. 145. 1959, c. 132. 1961, c. 130.)

Effect of amendments.—The first 1955 amendment deleted a special provision relating to Somerset county formerly appearing at the end of the second paragraph, and the second 1955 amendment added the exception clause to the first paragraph.

The 1957 amendment inserted Kennebec, Hancock and Washington counties

in, and deleted York county from, the exception clause in the first paragraph.

The 1959 amendment added two new paragraphs at the end of this section.

The 1961 amendment inserted Lincoln County in the exception clause in the first paragraph, and deleted "both days inclusive" following "September" in two places in such paragraph.

Sec. 107. Closed time on gray squirrels; bag limit.—There shall be a closed season on gray squirrels from the 16th day of November to the 30th day of the following September, both dates inclusive.

During the open season it shall be unlawful for any person to shoot, take, kill or have in possession more than 4 squirrels taken, shot or killed in any one day and not more than 8 squirrels shot or killed, in possession at any one time.

There shall be a perpetual closed season on gray squirrels within the limits of lands dedicated as public or private parks and within the limits of compact

or built up portions of any city or town. (R. S. c. 33. 1945, c. 374, § 2. 1955, c. 74.)

Effect of amendment.—The 1955 amendment rewrote this section.

Hunting with Bow and Arrow.

Sec. 108. Open season.—There shall be an annual open season from October 1st to October 14th in the Northern Zone as described in section 91 for the purpose of hunting deer with bow and arrow only. During the month of October any person hunting deer on Islesboro shall be licensed as provided in section 109. During the month of November any person hunting deer on Islesboro shall be licensed in accordance with the provisions of section 73.

There shall be an annual open season from October 1st to October 20th in the Central Zone as described in section 91 for the purpose of hunting deer with bow and arrow only.

There shall be an annual open season during the month of October in the Southeastern and Southwestern Zones as described in section 91 for the purpose of hunting deer with bow and arrow only, except that on the island of Islesboro in Waldo county there shall be an open season for hunting deer with bow and arrow during the months of October and November of each calendar year. (1951, c. 350. 1953, c. 172, § 1; c. 383, §§ 1, 2. 1955, c. 178. 1957, c. 392, § 27; c. 394, § 1; c. 429, § 46. 1959, c. 333, 14-A. 1963, c. 285, §§ 2, 3.)

Effect of amendments. — The 1955 amendment deleted a former exception as to Waldo county and changed the period of the open season.

The first 1957 amendment deleted a former exception as to a portion of Piscataquis county. However, the second and third 1957 amendments and the 1959 amendment each rewrote the section.

The 1963 amendment substituted "from October 1st to October 14th in the Northern Zone" for "during the month of October in Zone 1" near the beginning of the first paragraph, deleted the exception as to the island of Islesboro in Waldo county at the end of the first sentence of such paragraph, substituted "October 20th

in the Central Zone" for "October 26th in Zone 2" in the second paragraph, substituted "during the month of October in the Southeastern and Southwestern Zones" for "from October 1st to October 14th in Zone No. 3" near the beginning of the third paragraph, and added the exception as to the island of Islesboro in Waldo county at the end of such paragraph.

Effective dates. — P. L. 1957, c. 429, amending this section, became effective on its approval, October 31, 1957. P. L. 1959, c. 333, amending this section, provided in section 19 thereof that section 14-A of the act should become effective on January 1, 1960.

Sec. 109. Licenses; tags. — An archery license shall be issued by the commissioner to take deer under sections 108 to 112, inclusive, the fee for which shall be \$4.25 for hunting deer by residents of this state and \$10.25 for hunting deer by nonresidents; except that such archery licenses shall also permit the hunting of such wild birds and animals which can be legally hunted from October 1st to October 14th of each calendar year in the Northern Zone, from October 1st to October 20th in the Central Zone and during the month of October in the Southeastern and Southwestern Zones. Archery deer tags shall be issued for use in the same manner as regular deer tags. If a person does take a deer with bow and arrow during the special season provided in section 108, he is precluded from further hunting for deer during that year. If a person does not take a deer with a bow and arrow during the special season provided in section 108, he is not precluded from obtaining a hunting license for the regular open season.

The provisions of subsection I of section 73 shall not apply to archery licenses.

No resident under the age of 10 years and no nonresident under the age of 12 years shall hunt with bow and arrow at any time. Any resident between the

ages of 10 and 16 and any nonresident between the ages of 12 and 16, who hunts deer under the provisions of section 108, shall purchase an archery license with the written consent of parent or guardian and shall be accompanied at all times while hunting by parent or guardian or an adult approved by parent or guardian. (1951, c. 350. 1953, c. 172, § 2. 1955, c. 76. 1959, c. 333, § 15. 1963, c. 285, § 4.)

Effect of amendments.—The 1955 amendment shortened the season in the first sentence. It also added the second and third paragraphs.

The 1959 amendment rewrote the first sentence of this section.

The 1963 amendment substituted "from October 1st to October 14th of each calendar year in the Northern Zone, from October 1st to October 20th in the Central Zone and during the month of Octo-

ber in the Southeastern and Southwestern Zones" for "during the month of October of each calendar year in Zone No. 1, from October 1st to October 26th in Zone No. 2 and from October 1st to October 14th in Zone No. 3" at the end of the first sentence.

Effective date.—P. L. 1959, c. 333, amending this section, provided in section 19 thereof that section 15 of the act shall become effective on January 1, 1960.

Sec. 110. Equipment. — Deer may be taken under the provisions of sections 108 to 112, inclusive, only by means of hand bow and broad head arrow. The use of crossbow or set bow is prohibited. The strength of a bow shall be determined by flight of an arrow, each bow to shoot an arrow at least 150 yards. The arrow head shall be not less than $\frac{7}{8}$ inch in width. No person shall use arrows with either poisonous or explosive tips. No person shall carry firearms of any kind while hunting with bow and arrow. (1951, c. 350. 1953, c. 172, § 3. 1955, c. 156. 1957, c. 228; c. 392, § 28; c. 394, § 2; c. 429, § 47.)

Effect of amendments. — The 1955 amendment deleted the former fifth sentence, which read: "No bow shall be strung while carried in any vehicle."

The first 1957 amendment deleted the former last sentence which read "No deer shall be shot from a raised platform or standing tree." The second 1957 amendment deleted "not more than $2\frac{1}{2}$ inches in length and" formerly appearing in the sentence relative to arrow heads. The

third 1957 amendment substituted "hand bow" for "long bow with a minimum pull of 40 pounds" in the first sentence, added the second and third sentences and gave effect to the second 1957 amendment but failed to give effect to the first. However, the fourth 1957 amendment, which became effective October 31, 1957, re-enacted the section, giving effect to all previous amendments.

Sec. 112. Registration.—All deer killed under sections 108 to 112 shall be inspected by a warden before being registered under section 98-A. If the warden finds the deer to have been legally killed by bow and arrow he shall approve the deer for registration. If it appears to the warden that the deer was not legally killed with bow and arrow he shall seize the deer and prosecute the offender. (1951, c. 350. 1963, c. 414, § 12-E.)

Effect of amendment. — The 1963 amendment substituted "section 98-A" for "section 100" at the end of the first sentence and made other minor changes.

Trapping Season. Training of Dogs. Field Trials. Closed Season on Beaver. Digging Out Foxes. Bounty on Certain Animals.

Sec. 113. Trapping season.—Except as provided in this chapter, there shall be a perpetual closed season on hunting or trapping any wild animal.

Fur-bearing animals taken during any open season shall not be kept alive into or during closed season periods except in accordance with the provisions of section 15; provided, however, the commissioner may issue a permit to any individual to keep in captivity a skunk or raccoon and may revoke any permit so issued at any time. All permits so issued shall be valid only for the calendar year in which they were issued.

I. The commissioner may declare an open season on muskrats that are pol-

luting water supplies or damaging property if the owner makes a written complaint thereof to the commissioner.

No muskrats shall be hunted or trapped in Lake Alamoosook and Dead river and its tributaries in the town of Orland situated in Hancock county.

The open season on mink and muskrat shall be during the month of November in each calendar year; except that the open season on muskrat in Washington county shall be from April 1st to April 30th of each year and in York county shall be only from March 20th to April 20th in each year; and except that the open season on muskrat in Aroostook county shall be during the month of April only in each year; and except that the open season on muskrat within the watershed of Saco river in Oxford county, and on all lakes, ponds, marshes and streams tributary thereto, and within said county, shall be only from the first day of November to the 25th day of April in the following year. The open season on otter shall be the months of November, January and February of each calendar year.

There shall be an open season on fisher during the months of November, December, January and February of each year. The commissioner may lengthen, shorten or close such fisher season as he may deem necessary.

It shall be unlawful for any person to have in possession at any time any fisher, or part thereof, except as expressly permitted by this section. It shall also be unlawful for any person to sell, give away, buy, accept as a gift, offer for transportation or transport any fisher skin or fisher skins, unless each skin is tagged and marked as directed by the commissioner.

Any fisher skin or fisher skins that come into this state in any manner from any other state or country must have the official stamp, tag or seal of the state or country from which said skin or skins were taken. All fisher skins shall be presented for tagging or marking within 10 days from the closing of the so-called open season.

All fisher skins must be presented to the warden supervisor in whose division they were caught and if said supervisor is reasonably satisfied that the fisher presented were legally killed in his division, he shall tag and mark the same in the manner as directed and with the materials furnished by the commissioner. A fee of 50¢ must be paid by the trapper for each skin tagged and marked.

There shall be no open season on sable (marten).

The open season on all other wild or fur-bearing animals, excepting bobcats, loup-cervier, Canada lynx and beaver, shall be from November 1 of each calendar year to February 15th in the next following year.

Animals may be trapped with common ordinary steel traps and only size No. 1 killer-type traps. Killer-type traps larger than No. 1 may be used only under water. Killer-type traps shall include the so-called Conibear trap and all other traps of that type. (1947, c. 346, §§ 1, 2. 1949, c. 243, §§ 1, 2; c. 381, §§ 1, 2, 3. 1951, c. 53; c. 210, §§ 1, 2; c. 382. 1953, c. 303; c. 394, §§ 62, 63. 1955, c. 229. 1957, c. 95; c. 392, §§ 29, 30. 1961, c. 417, § 118. 1963, c. 279, §§ 26-28.)

II. It shall be unlawful for any person to set or place a trap within 25 feet of a muskrat den or house at any time, or to molest or destroy the muskrat house or den. No person shall make any advance preparation on the trapping grounds for the taking of beaver or muskrat previous to the open season on these animals.

III. Bear, hedgehog or bobcat. It shall be lawful to trap bear, hedgehogs or bobcats at any time anywhere in the state, and it shall be lawful to hunt bear, hedgehogs or bobcats at any time anywhere in the state except during Sundays and in the nighttime, except as otherwise provided. Any person who kills a black bear shall report the same within 7 days thereafter to the commissioner on forms provided by said commissioner.

IV. Raccoon and skunk. Raccoons and skunks may be hunted during the period from August 15th to December 15th of each year. Hunting of raccoons and skunks from ½ hour after sunset to ½ hour before sunrise during said period may be done under the following conditions:

A. The hunter must be accompanied by a dog when hunting raccoons;

B. An electric flashlight of not more than 3 cells may be used while locating or taking the animal found by a dog; and

C. No firearm may be in the possession of the hunter except a pistol using no greater power than .22 caliber long rifle ammunition may be used. (1949, c. 165. 1955, c. 249. 1963, c. 279, § 30.)

V. Any person may lawfully kill any wild animal, excepting beaver, or any wild bird found in the act of destroying that person's property.

VI. All of the rest of the calendar year which is not specifically opened to trapping shall be deemed to be a closed season.

VII. It shall be lawful to hunt and kill raccoons on the islands of North Haven and Vinalhaven, in the county of Knox, at any time except on Sunday and at night. Night shall be the period from ½ hour after sunset until ½ hour before sunrise of the following morning; except that it shall be lawful to hunt raccoons during the open season as provided in subsection IV. (1947, c. 38)

VIII. Spring trapping by Penobscot Indians. In addition to any open trapping season provided by this section, there shall be an open season on muskrats from March 1st to May 1st on all lands and islands belonging to the Penobscot tribe of Indians. It shall be unlawful for any person not a member of said Penobscot tribe to trap muskrats during such open season. [1961, c. 218, § 2]. (R. S. c. 33. 1945, c. 354; c. 374, § 2. 1947, cc. 38, 264; c. 346, §§ 1, 2. 1949, c. 165, c. 243, §§ 1, 2; c. 381, §§ 1, 2, 3, 4. 1951, cc. 53, 126; c. 210, §§ 1, 2; c. 382. 1953, c. 303; c. 394, §§ 62, 63, 64. 1955, cc. 75, 229, 249. 1957, c. 95; c. 392, §§ 29, 30. 1961, c. 88; c. 218, §§ 1, 2. 1961, c. 417, § 118. 1963, c. 279, §§ 26-30.)

Effect of amendments. — This section was amended three times by the Public Laws of 1955. Chapter 75 added the proviso to the first sentence of the second paragraph and also added the second sentence of the second paragraph. Chapter 229 rewrote all of subsection I except the first four paragraphs and the last paragraph. Chapter 249 changed the time for hunting at night in subsection IV and deleted therein references to "a kerosene light."

The first 1957 amendment added the second exception, which relates to open season on muskrat in Oxford county, at the end of the fourth (now third) paragraph of subsection I. The second 1957 amendment rewrote the fifth and sixth (now fourth and fifth) paragraphs and substituted "killed" for "trapped" in the ninth (now eighth) paragraph, all in subsection I.

Chapter 88, P. L. 1961, effective on its approval, March 10, 1961, inserted the exception as to the open season on muskrat in Aroostook county in the fourth (now third) paragraph of subsection I. Chapter

218, P. L. 1961, changed the open season on muskrat in Washington county in the fourth (now third) paragraph of subsection I from March 20th to April 20th to April 1st to April 30th and added subsection VIII. Chapter 417, P. L. 1961, reenacted the fourth (now third) paragraph of subsection I, giving effect to both earlier 1961 amendments.

This section was amended five times by the Public Laws of 1963. Section 26, c. 279, deleted the former third paragraph of subsection I, relating to taking muskrats. Section 27, c. 279, rewrote the first sentence of the present fifth paragraph of subsection I and added the second sentence thereto. Section 28, c. 279, added the present eleventh paragraph at the end of subsection I. Section 29, c. 279, added "except as otherwise provided" at the end of the first sentence of subsection III and also added the second sentence to such subsection. Section 30, c. 279, rewrote subsection IV. Chapter 101 also amended this section by adding a new subsection, but was repealed by c. 279, § 37.

Sec. 116. Special dog training areas.—Upon application of any club or organization having 25 or more members who are citizens who have been residents of the state for at least 6 months immediately prior to making application, and the payment of a fee of \$10, the department may issue a license authorizing the establishment and maintenance by such club or organization on land owned by them, or over which they have legal control, of a special dog training area wherein and whereon dogs may be trained at any time during the year. Each club so licensed may establish not more than 2 special dog training areas, each of which shall be not less than 100 acres. No club shall control more than a total of 400 acres. Licenses shall not be issued to more than 2 clubs in any one county.

The department may from time to time during each year stock pieces of game and shall charge the licensees a reasonable price therefor. Nothing herein shall be construed as authorizing licensees to liberate on such area any wild bird or quadruped coming from without the state. The licensees may at any time during the year train their own dogs or the dogs of other persons on such area. Any person not a licensee may do likewise by making application in writing to licensee and receiving a permit to do so, for which a charge of not to exceed \$1.10 may be made for residents, of which amount \$1 shall be paid to the commissioner and for nonresidents a charge of not to exceed \$5.10 may be made, of which amount \$5 shall be paid to the commissioner. Failure of a licensee to make reasonable provision for the use of such area by persons not licensees shall be deemed sufficient grounds for the department to deny a renewal of license. No person shall hunt on a licensed dog training area except the owner of the lands who may hunt unprotected birds and animals only. The department may make rules regulating the use of such areas.

(1957, c. 305. 1959, c. 117.)

Effect of amendments. — The 1957 amendment made the permit fee originally provided for in the fourth sentence of the second paragraph applicable to residents only and added the provisions as to fees of nonresidents.

The 1959 amendment deleted the former last sentence of the first paragraph

relating to the size and number of training areas and added the present last three sentences of that paragraph in lieu thereof.

As the rest of the section was not affected by the amendments, only the first and second paragraphs are set out.

Sec. 117-A. Field trials for retrieving dogs.—Upon application of any incorporated or unincorporated club or organization having in its membership 25 or more members who are citizens who have been residents of the state for at least 6 months immediately prior to making application and the payment of a fee of \$10, the department may at its discretion issue a license to such club or organization to hold at the time and place stated in such license a field trial for retrieving dogs for the purpose of demonstrating the skill of such dogs in retrieving dead or wounded game birds. A separate application shall be filed for each field trial proposed to be held by any such club or organization. Such license when issued shall authorize members of the licensee to shoot and kill with firearms, under supervision of a representative of the department, game birds propagated or legally acquired by members of the licensee and released by members of the licensee at the field trial held at the time and place specified in such license, but only during the daylight hours and only with the consent of the owner of or person having legal control of the land on which such field trial is held. Before any game bird so shot is consumed or removed from the premises, a representative of the department shall attach a tag thereto. Such tag shall be furnished by the department for a reasonable fee and shall remain attached to the bird until the same is prepared for consumption. Licensees shall pay the department for services of its representative at such field trials at the rate of \$15 per day. Persons participating in any such field trial pursuant to the provisions of this section shall not be required to have hunting

licenses. Game birds so released or shot pursuant to the provisions of this section shall not be deemed to be wild birds. (1955, c. 290, § 22.)

Sec. 119. Open season on beaver; taking; stamping; transportation.—There shall be an open season for the trapping of beaver during the months of January and February of each year. The commissioner may lengthen, shorten or close such beaver season as he may deem necessary.

Before the closing of an area to beaver trapping shall take effect, the commissioner shall cause notice of such proposed closed area to be published at least once in the county in which the area is located and said commissioner shall also file a copy of said notice of closed areas with the secretary of state and with the clerk of the superior court in the county where the area is located. The notices of closing shall be advertised before November 15th of the calendar year immediately preceding that calendar year in which they are to be in force.

It shall be unlawful to hunt beaver with firearms or bow and arrow.

No person shall take beaver anywhere in the state at any time except during such open season, except that the commissioner may cause department personnel to take nuisance beaver at any time without the consent of the landowner.

It shall be unlawful for any person to have in possession at any time any beaver, or part thereof, except as expressly permitted by this section and section 15. It shall also be unlawful for any person, firm or corporation to sell, give away, buy, accept as a gift, offer for transportation or transport any beaver skin or beaver skins unless each skin is tagged and marked as directed by the commissioner.

All beaver skins must be presented to the warden supervisor in whose division they were caught, or a warden of that division authorized by the chief warden to tag and mark beaver, and if said supervisor or warden is satisfied that the beaver presented were legally trapped in his division, he shall tag and mark the same in the manner as directed and with the materials furnished by the commissioner. There shall be not less than 3 wardens, in addition to the supervisor, designated in any warden division for the purpose of stamping beaver skins. A fee of \$1 shall be paid by the trapper for each skin tagged and marked.

In case said beaver skins are libeled under the provisions of this chapter, and the libel is, for any reason, quashed or ruling thereon is against the state, or in case any complaint or indictment involving said skins results in a verdict for the defendant, said skins shall on request and payment of the \$1 fee be immediately tagged, marked and delivered to the person entitled to possession of the same.

All beaver skins shall be presented for tagging and marking within 10 days from the closing of the so-called open season. All beaver which are not tagged and marked in accordance with the provisions of this section shall be seized and confiscated by the wardens.

Any beaver skin or beaver skins that come into this state in any manner from any other state or country shall have official stamp, tag or seal of the state or country from which said skin or skins were taken.

No person, except as hereinbefore provided, shall molest or destroy any beaver dam or set or tend any trap within 10 feet of the same. No person shall molest or destroy any beaver house or set any trap within 25 feet of the same. (R. S. c. 33. 1945, c. 374, § 2. 1947, cc. 151, 280, 312, 335. 1949, c. 206. 1951, cc. 193, 251. 1953, c. 394, §§ 67, 68, 69. 1955, c. 150. 1957, c. 392, §§ 31, 32. 1959, c. 333, § 16. 1961, c. 65. 1963, c. 279, § 31.)

Effect of amendments. — The 1955 amendment rewrote this section.

The 1957 amendment rewrote the first and second paragraphs and deleted the former last sentence of the section which

defined "beaver dam".

The 1959 amendment added the last sentence to the third paragraph of this section.

The 1961 amendment deleted the former

first sentence of the third paragraph, which provided when the consent of the landowner was necessary to trap beaver.

The 1963 amendment again rewrote the first paragraph of this section.

Sec. 120. Digging out foxes.—It shall be lawful to dig out foxes at any time and to hunt foxes at any time, except Sunday and in the nighttime. It shall be lawful to trap foxes or to cause to have foxes trapped at any time on one's own land, within a distance of 100 yards from a shelter or range where poultry is raised or kept. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 70. 1959, c. 73.)

Effect of amendment.—The 1959 amendment struck out the words "in organized territory of this state", formerly appearing

after the word "nighttime" at the end of the first sentence of this section.

Sec. 121. Bounty on bobcat, loupcevrier and Canada lynx.

Upon receipt by the state controller of a certificate from the commissioner showing that said commissioner has received the tail of the bobcat, loupcevrier or Canada lynx from the claimant sent as aforesaid, said controller shall audit the claim for bounty and the same shall be paid forthwith by the treasurer of state to the claimant from fines and penalties recovered and money received or collected under any provision of the inland fish and game laws or amendments thereof, or for sale of any seized or confiscated articles. After the foregoing funds have been exhausted, any further bounties shall be paid from the revenues of the department of inland fisheries and game. (R. S. c. 33. 1945, c. 374, § 2. 1953, c. 394, § 71. 1961, c. 395, § 21.)

Effect of amendment.—The 1961 amendment, which became effective upon its approval, June 17, 1961, rewrote the last sentence of the last paragraph.

As the rest of the section was not affected by the amendment, only the last paragraph is set out.

Sec. 122. Bounty on bears.—For a period of 2 years, from August 13, 1955, except in that portion of Franklin county north of the Appalachian trail, a bounty of \$15 shall be paid for each and every bear killed in organized townships and plantations and unorganized townships adjoining organized townships and plantations to the person killing the same, by the treasurer of the organized township or plantation in which said bear was killed or the treasurer of any organized township or plantation adjoining the unorganized territory in which said bear was killed. These bounties shall be paid by such treasurers. (1955, c. 317.)

Effect of amendment.—The 1955 amendment changed the date in the first paragraph from 1953 to 1955. Prior to the amendment all of Franklin county was

excepted from the section. As only the first paragraph was changed by the amendment, the rest of the section is not set out.

Licensing of Taxidermists and Dealers in Deer Skins and Heads and Dealers in Furs.

Sec. 124. Licenses for dealers in deer skins and heads.—The commissioner may annually issue licenses to residents of this state to buy and sell deer skins, and the heads of deer if not detached from said skins, during the months of January, February, March, October, November and December, and the time may be extended by the commissioner upon written application, and the extension shall also be in writing signed by the commissioner. All persons aiding or assisting another in buying the skins or heads of deer shall be considered as engaged in the business of buying the skins or heads of deer and must procure a license therefor. Provided, however, that deer heads so purchased may, when detached from the skins, be sold to licensed taxidermists. Such licensee shall keep a true and complete record which shall be open to inspection by the com-

missioner or his agent, of all such heads and skins purchased, the name and residence of whom purchased and the date of each purchase, and shall send such record annually, under oath, to the commissioner on or before the 31st day of December of each year. The fee for such license shall be \$25, to be paid to the said commissioner. All deer skins and deer heads purchased by virtue of this section shall be transported only under such rules as shall be made by said commissioner. No person shall buy any skins or heads of deer without being licensed as herein provided, or no licensee as aforesaid shall neglect to keep the record and forward the same to said commissioner as herein provided, nor refuse to exhibit said record upon request to the commissioner or his agent. For any violation of the provisions of this section the commissioner may as an additional penalty revoke said license. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 41. 1955, c. 290, § 21.)

Effect of amendment.—The 1955 amendment inserted the second sentence.

Sec. 125. Licenses for dealers in furs.—The commissioner may annually issue licenses to engage in the business of buying the skins of any fur-bearing animals. Each licensee shall keep a complete record, which shall be open to inspection at all times by the commissioner or his agent, of all skins purchased, as aforesaid, in such book as is furnished him by said commissioner, and shall send each record, under oath, to said commissioner on or before the 31st day of December of each year. The fee for the license shall be \$25 for residents of this state and \$50 for nonresidents, to be paid to the said commissioner. Whoever buys any skins of any fur-bearing animals without being licensed as herein provided, or whoever, licensed as aforesaid, neglects to keep the record and forward same to said commissioner as herein provided, or whoever refuses to exhibit said book for inspection by said commissioner or his agent, shall be subject to the penalties of section 139. All skins of fur-bearing animals bought in violation of any provisions of this section shall be forfeit and contraband and shall be seized by any person authorized to enforce the inland fish and game laws, and upon conviction of the person or persons from whom they were seized they shall be sold, and the proceeds from such sale paid to the treasurer of state. All persons aiding or assisting another in buying, sorting or grading the skins of fur-bearing animals shall be considered as engaged in the business of buying the skins of fur-bearing animals and must procure a license therefor. (R. S. c. 33. 1945, c. 374, § 2. 1951, c. 279. 1953, c. 394, § 74. 1957, c. 14; c. 392, § 33.)

Effect of amendments. — The first amendment deleted "to citizens of the United States" which formerly appeared in the first sentence. The second 1957 amendment changed the fee for the licenses of nonresidents from \$150 to \$50 in the third sentence.

Search and Seizure of Game.

Sec. 126. Seizure and disposition of game and equipment for violation of law.

FORM OF LIBEL

STATE OF MAINE

County of, ss. To

a

Clerk

Judge of the district court:

Complaint justice

The libel of, of shows that he has seized certain birds, fish or animals, or parts thereof, or equipment possessed in violation of the provisions of chapter 37, of the revised stat-

utes, as revised, described as follows:
.....
because the same were hunted, taken, caught, killed or had in possession in viola-
tion of the provisions of this chapter, as follows:
.....
which said articles were possessed at in said county of
..... Wherefore he prays 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, judge of the district court, 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 said
court, at 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 not 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
days before the return day hereof.
Witness:, esquire
on the day of 19....
.....
Judge

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, or equipment described in the within libel of to appear before, esquire, a judge of the district court 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,
Judge of the district court this day of
A. D. 19....

.....
Judge of District 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

(R. S. c. 33. 1945, c. 374, § 2. 1963, c. 402, §§ 75, 76.)

Effect of amendment. — The 1963 amendment substituted
“Clerk
Judge of the district court:
Complaint justice”
for “trial justice, judge or recorder of a municipal court, in and for said county” near the beginning of the Form of Libel, substituted “judge of the district court” for “a trial justice, judge or recorder of a municipal court, in and for said county” in the second paragraph of the Form of Monition and Notice, substituted “said court” for “me, the said justice, judge or recorder” in the third paragraph therein, substituted “Judge” for “Trial Justice, Judge or Recorder” beneath the line for

the first signature in that form, substituted “judge of the district court” for “trial justice, judge of the municipal court, within and for the county of” and for “said trial justice, judge of the municipal court of the county of” in the last form and deleted “Trial Justice” and substituted “Judge of District Court” for “Judge of Municipal Court following the line for the first signature in that form.

As the rest of this section was not affected by the amendment, only the Form of Libel and Form of Monition and Notice are set out.

Application of amending act.—See note to § 24.

Disposition of Money Received under This Chapter.

Sec. 129. Collection and disposition of money received under provisions of this chapter.—All fines, penalties, officers’ costs and all other moneys recovered by the court under any provision of this chapter shall accrue to the treasurer of state and shall be paid into the treasury of the county where the offense is prosecuted. All officers’ fees taxed against a respondent, if any, under any provision of this chapter, which are not paid or recovered from the respondent shall not be assumed or paid by the county where the offense was

committed. All fees, fines and penalties recovered and money received or collected and including moneys received from sale, lease or rental of department owned property shall be paid to the treasurer of state and credited to the department of inland fisheries and game for the operation of fish hatcheries and feeding stations for fish, for the protection of fish, game and birds, information and education on conservation and for printing the report of said commissioner and other expenses incident to the administration of said department, and shall be expended by the said commissioner for the purposes for which said department is created.

All moneys credited to the department of inland fisheries and game shall be credited, apportioned and expended as provided by the legislature.

(1959, c. 333, § 17; 1963, c. 27.)

Effect of amendments. — The 1959 amendment added the words “and including moneys received from sale, lease or rental of department owned property” in the third sentence of this section.

The 1963 amendment inserted the present second paragraph.

As the rest of this section was not affected by the amendments, only the first and second paragraphs are set out.

Jurisdiction of Offenses. Court Proceedings. Penalties.

Sec. 130. Officers may arrest without process; jurisdiction; impersonating game wardens.—Any officer authorized to enforce the inland fish and game laws may, without process, arrest any violator of said laws and shall, with reasonable diligence, cause him to be taken before the district court in the division in which the offense is alleged to have been committed, for a warrant and trial; or if the district court in an adjoining division is the nearest court to the place of violation, concurrent jurisdiction is given to such district court to hear and try such case.

Any game warden may arrest with or without warrant any person who impersonates or represents himself as being a game warden. (R. S. c. 33. 1945, c. 53; c. 374, § 2. 1953, c. 394, § 76. 1957, c. 392, § 34. 1963, c. 402, § 77.)

Effect of amendments. — The 1957 amendment substituted “violation” for “arrest” and inserted the word “concurrent”, both changes preceding the word “jurisdiction” in the last clause of the first paragraph.

The 1963 amendment substituted “district court” for “municipal court” and “division” for “county” throughout the section. It also deleted the former first sentence of the second paragraph.

Application of 1963 amending act.—See note to § 24.

The 1963 amendment substituted “dis-

Sec. 131. Jurisdiction.—The district court shall have original and concurrent jurisdiction with the superior court in all prosecutions under any provisions of this chapter. (R. S. c. 33. 1945, c. 374, § 2. 1963, c. 402, § 78.)

Effect of amendment.—The 1963 amendment substituted “The district court” for

“Trial justices and municipal courts within their counties” at the beginning of the

section.

Application of amending act.—See note to § 24.

Sec. 132. Fish and game wardens may accept personal recognizances in certain cases.—Any warden of the department making an arrest for any violation of any provision of this chapter at a point more than 50 miles distant from the nearest district court having jurisdiction, may accept the personal recognizances of the prisoner in the sum of not exceeding \$250 for his appearance before the nearest district court on a specified date and a deposit in money to the amount of said recognizance. Said warden shall forthwith report all such recognizances and forward all such deposits to the court to which such recognizance is returnable.

If such person fails to appear in court on the day specified, either in person or by counsel, the court shall order the recognizance and money deposited forfeited, and shall notify the commissioner of said default and forfeiture. The default and forfeiture shall be considered a conviction for purposes of revocation of licenses.

All money forfeited as aforesaid shall be immediately forwarded to the commissioner. (R. S. c. 33. 1945, c. 374, § 2. 1955, c. 89. 1963, c. 279, § 32; c. 402, § 79.)

Effect of amendments. — The 1955 amendment substituted “\$250” for “\$100” in the first sentence.

The first 1963 amendment deleted “as aforesaid” following “money deposited” near the beginning of the second paragraph, deleted “who shall revoke any and all licenses or permits held by said respondent issued under the provisions of

this chapter” at the end of the first sentence of said paragraph and added the second sentence to such paragraph.

The second 1963 amendment substituted “district court” for “trial justice or municipal court” at two places in the first sentence of the section.

Application of second 1963 amending act.—See note to § 24.

Sec. 133. Recovery and disposition of fines, fees, forfeitures and penalties.—The commissioner of inland fisheries and game shall have the same authority concerning fines, fees, forfeitures and penalties authorized by this chapter as is granted and vested in the commissioner of sea and shore fisheries under chapter 37-A, section 94. (R. S. c. 33. 1945, c. 374, § 2. 1959, c. 331, § 3. 1963, c. 279, § 33.)

Effect of amendments. — The 1959 amendment substituted the words “chapter 37-A, section 94” for the words “the provisions of section 139 of chapter 38”, formerly appearing at the end of this sec-

tion.

The 1963 amendment inserted “concerning fines, fees, forfeitures and penalties authorized by this chapter” in this section.

Sec. 137. Result of court cases reported to commissioner. — Every magistrate or the clerk of the court except the district court before whom any prosecution under this chapter is commenced or shall go on appeal, within 20 days after the trial or dismissal thereof, shall report in writing the result thereof and the amount of fines collected, if any, and disposition thereof, to the commissioner. (R. S. c. 33. 1945, c. 374, § 2. 1957, c. 334, § 5. 1963, c. 402, § 80.)

Effect of amendments. — The 1957 amendment inserted “except trial justice and municipal courts”.

The 1963 amendment substituted “the district court” for “trial justice and mu-

nicipal courts” and deleted “the provisions of” preceding “this chapter.”

Application of amending act.—See note to § 24.

Sec. 139. Penalties.

I. Beaver. Whoever violates any provision of this chapter relating to beaver, except setting any trap within 25 feet of any beaver house, or setting any trap within 10 feet of any beaver dam, shall be punished by a fine of not less than \$50 and costs and \$50 additional for each beaver or skin involved, or by imprisonment for not more than 90 days, or by both. (1949, c. 169. 1957, c. 392, § 35. 1963, c. 279, § 34)

Effect of amendments. — The 1957 amendment inserted “except setting any trap within 25 feet of any beaver house” and deleted “such fine and imprisonment” in subsection I.

The 1963 amendment inserted “or setting any trap within 10 feet of any beaver dam” in subsection I.

As the rest of the section was not changed by the amendments, only subsection I is set out.

Offense a misdemeanor. — An offense against this section is a misdemeanor. *State v. Chapman*, 154 Me. 53, 141 A. (2d) 630.

Possession of Firearms or Fishing Tackle.

Sec. 140. Possession of firearms in forests without license prima facie evidence of violation of law.—The possession of any firearm in the fields, forests or on the waters or ice within the territorial limits of the state by any person who does not possess the required hunting license duly issued to him,

covering the period of time within which said firearm is found in his possession, shall be prima facie evidence of hunting in violation of law unless such person furnishes satisfactory evidence of the issuance of such license. (R. S. c. 33. 1945, c. 374, § 2. 1959, c. 333, § 18. 1963, c. 279, § 35.)

Effect of amendments. — The 1959 amendment deleted the last paragraph added by the 1959 amendment, defining "firearm."

Careless Shooting of Human Being. Hunting in Game Preserves.

Sec. 146. Penalties for carelessly shooting human beings while engaged in hunting.—Whoever, while on a hunting trip or in the pursuit of wild game or game birds, negligently or carelessly shoots and wounds, or kills any human being, shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than 11 months. The hunting license of any such person convicted under the provisions of this section shall be immediately revoked by the commissioner upon receipt of an attested copy of the court records and such person shall not thereafter be privileged to procure a hunting license; provided that such license shall not be revoked pending appeal.

Any person whose hunting license has been revoked upon conviction of violating the provisions of this section may, after the expiration of 1 year from the date of such revocation, petition the commissioner for restoration of his privilege to procure such a license. The commissioner, after hearing and after his determination that public safety will not be endangered by the restoration to the petitioner of such privilege, may restore the same. If the commissioner disallows such a petition and thereby refuses to grant the restoration of such privilege, the petitioner may appeal to the commissioner's advisory council which, after hearing on said petition, may allow the same and restore such privilege. (R. S. c. 33. 1945, c. 374, § 2. 1947, c. 99, § 2. 1949, c. 194. 1957, c. 278.)

Effect of amendment. — The 1957 amendment decreased the maximum imprisonment from "10 years" to "11 months" in the first sentence, inserted the phrase "upon receipt of an attested copy of the court records" and substituted the word "privileged" for the word "eligible" in the second sentence, deleted a former sentence of the first paragraph relative to persons convicted in another state, and added the second paragraph.

Section makes negligently or carelessly shooting or wounding a human a crime.—The legislature in enacting this section has created a statute which makes the negligent or careless shooting and wounding of a human being a crime. It has without equivocation placed negligent and careless acts under the provisions of the statute as criminal acts without specifying the degree of negligence and carelessness. *State v. Jones*, 152 Me. 188, 126 A. (2d) 273, decided prior to the 1957 amendment.

The rule of strict construction is applicable to this section. *State v. Jones*, 152 Me. 188, 126 A. (2d) 273.

Negligence as used in this criminal statute is criminal negligence. There is a definite line of demarcation between civil and criminal negligence and the two classes are not consistent one with the other. *State v. Jones*, 152 Me. 188, 126 A. (2d) 273.

And it is error to instruct jury on civil negligence.—In a prosecution under this section court erred in instructing the jury on civil negligence and carelessness and refusing to give a requested instruction, "criminality is not predicated upon mere negligence necessary to impose civil liability, but upon that degree of negligence or carelessness which is denominated gross or culpable." *State v. Jones*, 152 Me. 188, 126 A. (2d) 273, decided prior to the 1957 amendment.

Cited in *State v. Dinan*, 158 Me. 344, 184 A. (2d) 466.

Sec. 147. Reports and investigation of hunting accidents.—Whoever knows of the wounding or killing of a human being as set forth in section 146 shall forthwith report the same to the sheriff of the county where the accident occurred or the state police. Such sheriff or the state police shall immediately notify the county attorney and the department of inland fisheries and game. Such

sheriff or the state police and the county attorney shall promptly make an investigation and prosecute any violation. (R. S. c. 33. 1945, c. 374, § 2. 1963, c. 184.)

Effect of amendment. — The 1963 amendment rewrote this section.

Sec. 148. Hunting in game preserves; hunting or possession of firearms within limits of game preserves.

Wild animals property of state; right of state to conserve, protect and regulate.— The animals which are objects of the hunt are naturally wild. There is no right of individual ownership as they are property of the sovereignty. There can be no question of the right of the state to conserve, protect and regulate its wild life. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

It has been demonstrated that the state has the authority to regulate the wild life of which it is the owner. This right of regulation applies to all land contained within the borders of the state, whether privately or publicly owned. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

Rights of landowner to hunt on own property restricted.— There is nowhere to be found in the statutes that the state gives the right or privilege of a landowner to hunt game on his own property excepting he may hunt without a license on land where he is actually domiciled and which is exclusively used for agricultural purposes (R. S. 1954, c. 37, § 73, subtitle 1) or he may kill deer on his own land when crop and orchard damage is done by them (R. S. 1954, c. 37, § 94, subtitle 1). State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

Right of state to establish game preserve. — The state is within its sovereignty powers to establish a game preserve with-

out violating any constitutional rights of the owner by its establishment. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

Rights of private owner upon establishment of preserve. — The law authorizing the state to establish game preserves on the property of a private owner does not take from him any title, dominion of ownership or essential use. These elements of ownership remain inviolate. The legislative act does nothing more than prohibit hunting and possession of firearms within the preserve without taking any of the essentials of ownership. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

The establishment of a game preserve by the state does not constitute a "taking" within the meaning of the word as used in its constitutional sense, even though a person owns a part of the land within the preserve, dwells there and cultivates a portion of the soil. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

Sections 148 and 149 constitutional. — This and the following section, as amended, creating a game preserve and prohibiting, except as provided, the carrying of firearms or hunting within the limits of a state game preserve are not unconstitutional as violating sections 6, 16, 21 of article I of the Constitution of Maine. State v. McKinnon, 153 Me. 15, 133 A. (2d) 885.

Game Preserves and Sanctuaries.

Sec. 149. Game preserves and sanctuaries.

Augusta: Repealed by Public Laws 1957, c. 90, § 1.

Bartlett's Island: Repealed by Public Laws 1957, c. 215, § 1.

Gero Island: Repealed by Public Laws 1959, c. 240.

Glencove; Rockport: It shall also be unlawful for any person to hunt, pursue, shoot at or kill any wild bird or wild animal at any time in Glencove, so called, in Penobscot Bay, which cove is situated in the town of Rockport, in the county of Knox, and which cove is bounded as follows, to wit: On the north, west and south by the main land, on the east by a line extending from Smith's point to Ram island and from Ram island to the easterly point of Pine hill in said Rockport. It shall also be unlawful for any person to have in possession at any time any wild bird or wild animal taken in violation of any provision of this paragraph. Whoever violates any provision of this paragraph shall be punished by a fine of not less than \$5, nor more than \$50, and costs for each offense, or by imprisonment for 30 days, or by both such fine and imprisonment. (1961, c. 118, § 1)

Gribbel Game Preserve: Repealed by Public Laws 1961, c. 118, § 2.

Hog Island Game Sanctuary: Hog island in the town of Bremen, Lincoln county.

Jefferson and Whitefield: The following described territory situated in the towns of Jefferson and Whitefield, in the county of Lincoln, which land is bounded as follows: On the north by the highway leading from Weary pond to South Jefferson; on the east by Sterns brook and by Little Dyer's pond and the inlet stream and marsh of said pond and by the highway leading from South Jefferson to Alna; on the south by the Alna town line; on the west by the road leading from Alna to said Weary pond, in the town of Whitefield. (1955, c. 237)

Limington, Hollis and Waterboro: The following described territory situated in the towns of Limington, Hollis and Waterboro, in York county; beginning at a point where the Little Ossipee river joins the Saco river in the town of Limington, thence westerly and southerly along said Little Ossipee river to the highway at Edgcomb's bridge, so called, in Waterboro, thence southerly and easterly along said highway to North Hollis, in the town of Hollis, thence easterly and northerly along the road next west of Killick brook to the road leading from Nason Mills to Bonney Eagle, thence northeasterly along said Bonney Eagle road to the town line between Limington and Hollis, thence northerly along said town line to the Saco river, thence northerly along said Saco river to the point of beginning, including such portions of the highways herein mentioned as serve to bound the tract herein described. The provisions of this paragraph shall not prohibit the commissioner from regulating the taking of fur-bearing animals thereon. It shall also be unlawful for any person to have in possession at any time any wild bird or wild animal taken in violation of any provision of this paragraph. (1945, c. 146. 1947, c. 37. 1949, c. 20. 1951, c. 46. 1961, c. 84)

Maranacook Game Preserve: Repealed by Public Laws 1957, c. 90, § 2.

Merrymeeting Bay Game Sanctuary: A game sanctuary shall be established in Merrymeeting bay bounded as follows: On the west by a line drawn from a red stake or marker located near high-water mark and near latitude 44° 0' 11" north, longitude 69° 50' 40" west: the line running south approximately 400 yards to a red stake or marker near latitude 44° north longitude 69° 50' 40" west, thence southeasterly approximately 1,900 yards to a red stake or marker located near high-water mark and near latitude 43° 59' 31.5" north longitude 69° 49' 34" west, thence northeasterly following high-water mark approximately 1,250 yards to a red stake or marker under the overhead power cables latitude 44° 0' 02.5" north, longitude 60° [69°] 49' 11" west, thence northwesterly approximately 550 yards following the line of the power cables to a red stake or marker near high-water mark and latitude 44° 0' 10" north, longitude 69° 49' 34" west, thence westerly along high-water mark to point of beginning. (1951, c. 116. 1959, c. 297. 1961, c. 122)

Natanis Game Preserve: Repealed by Public Laws 1957, c. 90, § 3.

Ocean Park Game Preserve and Bird Sanctuary: The following described territory situated in the town of Old Orchard Beach, in the county of York: Beginning at a point on the easterly side of the Old Salt road where the same intersects the Boston and Maine railroad right-of-way; thence south to the athletic field, thence westerly along the northwesterly boundary of the athletic field, thence southerly along its westerly boundary, thence westerly to the edge of the salt marsh, thence southwestly along the edge of the salt marsh to the mouth of Goose Fare brook, thence at right angles and easterly and parallel with the Atlantic Ocean and 50 feet in front of all bulkheads and houses fronting on the beach to the easterly side of Tunis avenue, thence northwesterly along said avenue to the Boston and Maine railroad right-of-way, thence by said Boston and Maine right-of-way to point of beginning.

Oosoola Stream Game Preserve: Repealed by Public Laws 1961, c. 85.

Rangeley Game Preserve, in the County of Franklin: No person shall at any time hunt, chase, catch, kill or destroy any wild animal or wild bird within the limits of the following described tract or territory, situated in Rangeley, in the county of Franklin, to wit: So much of said town of Rangeley as is bounded as follows, southwesterly by Rangeley lake; northwesterly and northeasterly by route No. 16; and southeasterly by the inlet to Rangeley lake leading from Haley pond, so called. The territory above described being so much of said town of Rangeley, as lies between Rangeley lake, the outlet of Rangeley lake, route No. 16 and said inlet to Rangeley lake from Haley pond. It shall be unlawful for any person to have in possession at any time, any wild animal or wild bird, or part thereof, taken within the above described territory. The provisions of this paragraph shall, however, apply to that part of Hunter Cove, so called, lying northerly of Hunter Cove bridge, so called.

Stockholm Game Preserve: Repealed by Public Laws 1957, c. 90, § 4.

Wells and York Game Management Area: No person shall, except as herein provided, at any time, hunt, pursue, shoot at, molest or kill any wild animal or any game or wild bird within the following described territory situated in the towns of Wells and York in York county; beginning at a point on highway No. 1 where the Josias river meets said highway No. 1 in the town of Wells, thence southwesterly along said Josias river to the Maine turnpike in the town of York, thence northerly along said Maine turnpike to the Agamenticus road overpass; thence westerly across said overpass by Agamenticus road to the North Village road; thence northerly along said North Village road to Ogunquit-North Berwick road, thence easterly along said Ogunquit-North Berwick road to highway No. 1 in the town of Wells, thence southerly along highway No. 1 to the point of beginning in the town of Wells. It shall also be unlawful for any person to have in possession at any time any wild bird or wild animal taken in violation of any provision of this paragraph. The provisions of this paragraph shall not prohibit the commissioner of inland fisheries and game from regulating the taking of fur-bearing animals and vermin thereon. (1955, c. 277. 1957, c. 114.)

Windham: Repealed by Public Laws 1961, c. 81.

(1955, cc. 45, 237, 277, 364. 1957, c. 90, §§ 1, 2, 3, 4. c. 114; c. 215, § 1. 1959, cc. 240, 297. 1961, cc. 81, 84, 85; c. 118, §§ 1, 2; c. 122. 1963, cc. 10, 100; c. 279, § 36.)

Cross reference.—See note to § 148.

Effect of amendments. — This section was amended four times by the Public Laws of 1955. Chapter 45 rewrote the paragraph relating to Stockholm Game Preserve. Chapter 237 deleted from the paragraph relating to Jefferson and Whitefield the part of the description consisting of the names of the landowners. Chapter 277, in the paragraph relating to Wells and York, substituted "Josias river" for "Agamenticus road" in lines five and six, and "Maine turnpike" for "logging road, so called" in line six. It also changed the words "westerly and northerly along said logging road" in the same paragraph to read "northerly along said Maine turnpike." Chapter 364 inserted a paragraph relating to Bartlett's Island.

The first 1957 amendment repealed the paragraphs relating to Augusta, Maranacook, Natanis and Stockholm game preserves. The second 1957 amendment revised the description of the territory in

the paragraph relating to Wells and York Game Preserve. The third 1957 amendment repealed the paragraph relating to Bartlett's Island which was added in 1955.

The first 1959 amendment repealed the paragraph relating to Gero Island. The second 1959 amendment added the paragraph relating to the Merrymeeting Bay Game Sanctuary.

Chapter 81, P. L. 1961, repealed the paragraphs relating to Windham Game Preserve. Chapter 84, P. L. 1961, added "including such portions of the highways herein mentioned as serve to bound the tract herein described" at the end of the first sentence of the paragraph relating to Limington, Hollis and Waterboro. Chapter 85, P. L. 1961, deleted the paragraph relating to Oosoola Stream Game Preserve. Chapter 118, P. L. 1961, deleted the first sentence of the paragraph relating to Grassy Pond; Glencove; Rockport, which sentence related to Grassy pond, and also

repealed the paragraph relating to Gribbel Game Preserve. Chapter 122, P. L. 1961, rewrote the description of Merrymeeting Bay Game Sanctuary.

Chapter 10, P. L. 1963, added the paragraph relating to Hog Island Game Sanctuary. Chapter 100, P. L. 1963, changed the name of the Old Orchard Beach Bird Sanctuary to Ocean Park Game Preserve

and Bird Sanctuary and deleted the former provisions as to hunting, molesting or killing birds within such sanctuary. Chapter 279, P. L. 1963, deleted the former fourth sentence of the paragraph relating to the Rangeley Game Preserve.

Only the paragraphs affected by the amendments are set out.

Game Management Area.

Sec. 150-A. Game management area.—The following described territory shall be classified as a game management area, to be managed by the commissioner, in accordance with the provisions of subsection VI of section 68:

Bartlett's Island in Hancock county.

Deer Isle and Stonington: The towns of Deer Isle and Stonington, Hancock county.

Lake Christopher: Beginning at a boundary marker on the most easterly point of South pond, town of Greenwood, Oxford county, where the Grand Trunk Canadian railway meets South pond; thence extending southerly to the most southern tip of South pond; thence southerly to road which runs from Locke mills to Greenwood city; thence southerly and easterly to Rowe Hill road; thence southerly and easterly along the Rowe Hill road to the intersection of Rowe Hill road and Grand Trunk railroad; thence northerly and westerly along said railroad to the point of beginning, excepting from the above description such of the area as is within 500 feet of said South pond beginning at a boundary marker on the Rowe Hill road; thence in a northerly direction to a boundary marker on the Old Bryant road and thence northeasterly following this road to the boundary marker at the intersection of the Grand Trunk railroad.

Mount Desert Island: Mount Desert island, Hancock county.

Oak Grove: The campus and land of Oak Grove school, in the town of Vassalboro, county of Kennebec, situated on the east side of route No. 100; and all the land of said school situated on the west side of route No. 100. (1957, c. 74; c. 215, § 2; c. 255, § 1. 1959, c. 300, § 1; 1963, c. 73, § 2.)

Editor's note.—Chapter 74, P. L. 1957, inserting a new section relative to the Oak Grove game management area, was repealed by P. L. 1957, c. 255, § 2. Chapter 215, § 2, enacted the introductory paragraph of this section and the provisions as to Bartlett's Island. Chapter 255, § 1, which did not refer to c. 215, § 2, reenacted the introductory paragraph and added the provisions as to Lake Christo-

pher and Oak Grove.

The 1959 amendment added the paragraph relating to Deer Isle and Stonington to this section.

The 1963 amendment, subject to referendums in the towns of Mount Desert, Bar Harbor, Southwest Harbor and Tremont at their annual town meetings in 1964, added the paragraph relating to Mount Desert Island.

Field Trials for Retrieving Dogs.

Sec. 151. Repealed by Public Laws 1955, c. 290, § 22.

Cross reference.—For present provisions re field trials for retrieving dogs, see § 117-A of this chapter.

Liability of Landowners.

Sec. 152. No duty to keep premises safe for hunters, trappers, fishermen, campers, hikers or sightseers.—

I. Safe for entry; no warning. An owner, lessee or occupant of premises owes no duty to keep the premises safe for entry or use by others for hunting, fishing, trapping, camping, hiking or sightseeing, or to give warning of any

hazardous condition or use of or structure or activity on such premises to persons entering for such purpose, except as provided in subsection III.

II. Permission. An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, hike or sightsee upon such premises does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted, except as provided in subsection III.

III. Liability. This section does not limit the liability which would otherwise exist for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or for injury suffered in any case where permission to hunt, fish, trap, camp, hike or sightsee was granted for a consideration other than the consideration, if any, paid to said landowner by the state; or for injury caused, by acts of persons to whom permission to hunt, fish, trap, camp, hike or sightsee was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

IV. Injury to person or property. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

V. Definition. The word "premises" as used in this section includes lands, private ways and any buildings and structures thereon. (1961, c. 276.)

Chapter 37-A.

Sea and Shore Fisheries.

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Sections 94-96.	Penalties, Disposition of Fines, Costs of Imprisonment.
Section 97.	Biennial Pamphlet of Laws.
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General Definitions.

Sec. 1. General definitions.—Each word or term defined in this section