WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED
SENATE BILL No. 204

(By Mr. [Signatures])

PASSED March 9, 1939

In Effect 90 days from Passage

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WILLIAM S. O'BRIEN
SECRETARY OF STATE
ENROLLED
Senate Bill No. 204

(By Mr. LaFon, Mr. President)

[Passed March 9, 1939; In effect ninety days from passage.]

AN ACT to amend chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by amending and reenacting section nine, article one-a, section one of article two, sections one, four, seven, eight, ten and twelve-a of article three, sections one, three, five, six, eleven, twelve and fourteen of article four, sections two and four of article five, sections one, two, four, five and seventeen of article six, sections one, three and eleven of article seven, sections one, two and three of article eight, sections one and five of article nine and section four of article ten; and by repealing sections seven to ten, inclusive, of article four,
section three of article six and section four of article eight;
and by adding section eleven to article one-a, sections seven-a,
seven-b, seven-c, seven-d, seven-e, eight-a and eight-b to article
three, section three-a to article four, section two-h to article
seven, section nine to article eight-a, sections four-a and six-a
to article nine and section one-a to article ten, all relating to
the game, fish and forests of the state.

Be it enacted by the Legislature of West Virginia:

That chapter twenty of the code of West Virginia, one thou­
sand nine hundred thirty-one, as amended, be amended by amend­
ing and reenacting section nine of article one-a, section one of
article two, sections one, four, seven, eight, ten and twelve-a of
article three, sections one, three, five, six, eleven, twelve and
fourteen of article four, sections two and four of article five,
sections one, two, four, five and seventeen of article six, sections
one, three and eleven of article seven, sections one, two and three
of article eight, sections one and five of article nine and section
four of article ten; and by repealing sections seven to ten, in­
clusive, of article four, section three of article six and section four
of article eight; and by adding section eleven to article one-a,
sections seven-a, seven-b, seven-c, seven-d, seven-e, eight-a and eight-b to article three, section three-a to article four, section two-h to article seven, section nine to article eight-a, sections four-a and six-a to article nine and section one-a to article ten, all to read as follows:

**Article 1-A. Director of Conservation.**

Sec. 9. *Legal Services by Attorney General and Prosecuting Attorneys; Employment of Other Attorneys.* The attorney general and his assistants and the prosecuting attorneys of the several counties shall render to the director, without additional compensation, such legal services as he shall require of them in the discharge of his duties under the provisions of this chapter.

The director may, in an emergency and with prior approval of the attorney general, employ an attorney to act in proceedings wherein criminal charges are brought against an employee or appointee of the commission because of action taken in the line of duty. Not to exceed one hundred dollars shall be so expended by the director in any one case.

Sec. 11. *Cooperation with Federal Government in Wildlife Projects.* The state of West Virginia hereby assents to the pro-
visions of the act of Congress entitled "An Act to provide that the United States shall aid the states in wildlife restoration projects and for other purposes," approved September second, one thousand nine hundred thirty-seven, (Public No. four hundred fifteen, seventy-fifth Congress) and the director is hereby authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and with rules and regulations promulgated by the Secretary of Agriculture thereunder. Funds accruing to the state from license fees paid by hunters shall not be diverted for any purpose other than the activities in this chapter.

Article 2. Game Protectors.

Section 1. Appointment; Compensation; Qualifications; Uniforms. The director shall, in accordance with other provisions of general law relating to the appointment and compensation of the personnel of the state government, appoint game protectors and fix their compensation. Game protectors shall serve during the will and pleasure of the director. The director may also appoint special game pro-
Persons appointed as game protectors shall be men interested and experienced in the work for which they are selected. They shall be selected as follows:

1. An applicant shall apply to the director for appointment upon blanks furnished for that purpose by the director;

2. The application shall be accompanied by the certificates of the judge of the circuit court, the sheriff, and the prosecuting attorney of the county in which the applicant resides to the effect that the applicant is a person of good moral character, not of intemperate habits, and has never been convicted of a felony and not more than once of a misdemeanor;

3. The director shall examine the applicant with respect to his qualifications and fitness for the position. No person shall be appointed unless he passes the examination in a satisfactory manner. The director shall prescribe the kind, style and material of uniforms to be worn by game protectors. Uniforms and other equipment furnished to game protectors to serve for such periods of time as may be necessary.
29 protectors shall be and remain the property of the state.


Section 1. State Ownership of Game, Birds, Fish and Frogs.

2 The ownership of, and the title to, all wild animals, wild birds, both resident and migratory, and all fish and frogs, and all other aquatic life, in the state of West Virginia, are hereby declared to be in the state, as trustee for the people, and no such wild animals, wild birds, fish or frogs, or other aquatic life, shall be taken or killed in any manner, or at any time, except the person so taking or killing the same shall consent that the title thereto shall be and remain in the State of West Virginia, for the purpose of regulating the taking, use and disposition of the same after such taking or killing; and the taking or killing of wild animals, birds, fish or frogs, and all other aquatic life, at any time or in any manner by any person, shall be deemed such consent. But nothing herein contained shall make unlawful the bringing in of game or fowl acquired lawfully in another state.

Sec. 4. Unlawful Acts on Sunday. It shall be unlawful on Sundays to:

1. Carry an uncased gun in the woods, fields or streams of
this state, except at, or on the way to or from, a regularly
used skeet, target or trap shooting ground;

2. Hunt, catch, kill, trap, injure or pursue with intent to
catch, kill, trap or injure any wild animals, wild birds, or any
other animal or bird protected under the provisions of this
chapter.

Sec. 7. Possession of Wild Animals or Wild Birds, etc. No
person shall have in his possession, except during the open sea-
son therefor, any wild animals, wild birds, fish or frogs pro-
tected under the provisions of this chapter, unless such pos-
session is in accordance with a permit issued by the director
under sections seven-a to seven-d, inclusive, of this article.

The director, or his duly authorized agents, may hunt, kill,
capture or maintain in captivity, at any time, any wild ani-
mals, wild birds, fish or frogs for the purpose of scientific re-
search, propagation, protection or distribution.

Sec. 7-a. Permit for Scientific or Propagation Purposes.

The director may issue a permit to a person to hunt, kill, cap-
ture or maintain in captivity wild animals, wild birds, fish or
frogs, or any of them, exclusively for scientific or propagation
purposes, but not for any commercial purposes. A permit
shall be issued only upon written application to the director setting forth at least:

1. The number and kind of animals, birds, fish or frogs to be taken;
2. The purpose and manner of taking;
3. The name and residence of the person applying for the permit.

A fee of one dollar shall accompany each application.

Sec. 7-b. Permit for Keeping of Pets. The director may issue a permit to a person to keep and maintain in captivity as a pet, a wild animal or wild bird that has been acquired from a commercial dealer or during the legal open season. A permittee shall, upon the request of the director, furnish a detailed list of wild animals or wild birds kept under authority of the permit.

Sec. 7-c. Permits for Roadside Menageries. The director may issue a permit for the keeping and maintaining in captivity of wild animals, wild birds, fish or frogs as a roadside menagerie. A permit shall not be issued unless:

1. The animals, birds, fish or frogs have been purchased from a licensed commercial dealer, either within or without
the state, or have been taken during the legal open season in this state;

2. The director is satisfied that provisions for the housing and care of wild life to be kept in captivity and for the protection of the public are proper and adequate.

A fee of fifteen dollars shall accompany each application for such permit.

The director shall adopt and enforce reasonable rules and regulations for the housing, care, treatment, feeding and sanitation of animals, birds, fish or frogs kept in a roadside menagerie, and for the protection of the public against injury by them.

Sec. 7-d. Permits; Expiration and Revocation; Sales Under.

A permit issued in accordance with sections seven-a to seven-c, inclusive, of this article, shall expire on the thirty-first day of December following the date of issue, and may be revoked by the director for cause. A permittee shall not sell or barter any animals, birds, fish or frogs, taken or held under authority of the permit, without the prior written permission of the director: Provided, however, That a permittee under this section shall have the right to sell or transfer to his successor
any roadside menagerie which he has been authorized to operate.

Sec. 7-e. Dealers in Furs and Pelts; Licenses and Permits; Reports to Director; Revocation of License. A person shall not buy or deal in raw furs, pelts or skins of fur-bearing animals unless licensed so to do in accordance with this section.

The director may issue licenses for buying or dealing in raw furs, pelts, or skins or fur-bearing animals as follows:

1. A resident county license, which shall apply only to the county or counties designated on the license and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application, and of a county in which the privilege is to be exercised. A license shall apply to the county for which issued and to such adjacent counties as are designated in the application for the license. A fee of one dollar for each county shall accompany the application.

2. A resident state-wide license, which shall apply to all counties in the state and shall be issued only to persons who have been bona fide residents of this state for a period of at least six months prior to the date of application. A fee of
ten dollars shall accompany the application.

3. A non-resident state-wide license, which shall apply to all counties in the state and shall be issued only to non-residents. A fee of fifty dollars shall accompany the application.

4. An agent's permit, which shall apply to a person employed by a licensee under (1), (2), or (3) above, to buy or deal as an agent of the licensee other than at the place of business of the licensee. A fee of two dollars and fifty cents for each such agent shall accompany the application.

A license or permit shall expire on the last day of the calendar year during which it was issued. Fees collected under this section shall be paid into the state treasury forthwith in the same manner, and shall be credited to the same fund, as hunting and fishing license fees.

A licensee under this section shall, on or before April first of each year, make an annual report to the director with respect to the number and kind of furs purchased. The report shall be in the form and shall contain such information as the director may prescribe. Failure or refusal to make the report as required by the director shall be cause for revocation of, or refusal to renew, the license.
A license or permit issued under this section may be revoked for cause.

Sec. 8. Open Seasons and Bag Limits; Publication; Change or Suspension of Open Seasons; Sectional Meetings.

The director shall, by regulation, fix the open seasons with respect to wild animals, fur-bearing animals, wild birds, fish and frogs. He may prescribe different open seasons of varying length in the several counties of the state. The director shall fix the open seasons for hunting and fishing in the several counties of the state as soon as possible after the first of each calendar year. Open seasons so fixed shall be published, upon determination, in four newspapers of general circulation throughout the state at least once each week for two successive weeks.

The director may:

1. When he finds such action necessary to protect the forests or the wildlife of the state, change the bag limits on wild animals, wild birds, fur-bearing animals, fish and frogs. Before a change becomes effective, the director shall give notice by publication of the order in two newspapers of general circulation throughout the state, once each week for two successive weeks, with the last publication not later than two
20 weeks prior to the date the change becomes effective;
21 2. Omit or suspend for a fixed and definite period, or
22 change the date of open seasons for the catching of fish in a
23 stream or part of a stream in this state. The order shall
24 definitely fix the stream, or part thereof, by a proper descrip-
25 tion. Before the suspension becomes effective, the director
26 shall give notice by publication of the order once each week
27 for two successive weeks in a newspaper of the county in which
28 the stream is located;
29 3. Omit, limit, or suspend for a fixed and definite period
30 open seasons for the killing of any wild animals or wild birds
31 in any county. The order shall state the species and kinds
32 of birds or animals and the period of limitation or suspension.
33 Before the order becomes effective the director shall give no-
34 tice by publication of the order in four newspapers of general
35 circulation throughout the state, once each week for two suc-
36 cessive weeks, with the last publication at least two weeks prior
37 to the effective date of the order.
38 For the purpose of giving the various sections of the state
39 an opportunity to be heard concerning open seasons for their
40 respective areas, the director shall, and before such seasons
are fixed for the various counties of the state as soon as practicable after the beginning of each calendar year, hold meetings at Beckley, Charleston, Elkins, Martinsburg, Morgantown and Parkersburg.

Sec. 8-a. Suspension of Hunting Season in Emergencies.

The director may, with the prior approval of the governor, in case of an emergency such as drought, forest fire hazard, or epidemic of disease among wild animals or wild birds suspend open hunting seasons upon any or all wild animals or wild birds in any or all counties of the state. The suspension shall continue during the existence of the emergency and until rescinded by the director. The director may, with prior approval of the governor, add the period of suspension to the open season if conditions requiring the suspension have abated. Suspension of open seasons may be made upon twenty-four hours' notice. Notice shall be given by announcement through all licensed radio broadcasting stations in the state, and by delivery of a copy of the order of suspension to the associated press at the state capital and any seasons so suspended with prior approval of the governor shall be reopened through notification in the same manner.
Sec. 8-b. Penalties under Sections Eight and Eight-a. A person who fishes, or who hunts or kills, in violation of an order of the director issued in accordance with section eight or section eight-a of this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by section fourteen of this article.

Section 10. Sale of Game, Birds, Fish or Frogs. No person shall purchase or offer to purchase, sell or offer to sell, expose for sale, or have in his possession for the purpose of sale:

1. Any, or any part of, elk, deer, squirrel, rabbit, wild turkey, ruffed grouse, quail, woodcock, wild duck, wild goose, wild swan, wild brant, snipe, sandpiper, or any of the song or insectiverous birds of the state; except as permitted by section twelve-a, article three of this chapter: Provided, however, that the sale of rabbits shall not be prohibited in Wayne County.

2. Any, or any part of, trout of any species, salmon of any species, pike of any species, perch or wall-eyed pike, bass of any species, perch of any species, pickerel of any species, or any frog, caught or captured within this state, except as permitted by section thirteen, article six of this chapter.
17 No person, including a common carrier, shall (except as permitted by section thirteen, article six of this chapter) transport, carry or convey, or receive for such purpose, any of the animals or birds, or of the fish or frogs, listed under (1) and (2) above, caught or killed in this state, if such person knows, or has reason to believe, that such animals, birds, fish or frogs have been or are to be sold.

24 The selling or exposing for sale, having in possession for sale, transporting or carrying in violation of this section shall each constitute a separate offense.

27 The director may extend the application of this section to animals, birds, fish or frogs not listed under (1) or (2) above, if he finds that such additional species require the protection accorded by this section.

31 The provisions of this section shall not apply to animals, birds, fish or frogs raised under the authority of a license issued in accordance with section twelve-a of this article.

Sec. 12-a. License for Private Game Preserve for Purpose of Propagating Game for Commercial Purposes. The director may issue a license for the operation of a private game preserve for propagation of game animals or game birds for
commercial purposes. The license shall authorize the holder
to breed or raise game as specified by the license and to sell
the same dead or alive, or to sell the eggs of game birds, in
accordance with regulations prescribed by the director.
A license issued under this section shall expire on the
last day of the calendar year during which it was issued.
The annual license fee shall be five dollars.
Application for a license under this section shall desig-
nate the property whereon the preserve is to be established.
Before the license is issued, the director shall determine
that the property is properly enclosed, that the provisions
for housing and sanitation are proper and adequate, and
that the safety of the public is protected.
A licensee shall, before game of any kind, raised under
the authority of a license, is shipped out of the state, offer
the game for sale to the director. The director shall, with-
in ten days, advise the licensee whether he will purchase.
If the director does not purchase, the game may be shipped
to another state.
The director may make such rules and regulations as he
may find necessary and proper for the sale of game animals
26 and birds raised by a licensee.
27 The director may revoke a license issued under this sec-
28 tion for cause.

Article 4. Game and Fur-bearing Animals.

Section 1. Game and Fur-bearing Animals Defined; Other
Species; Publication. For the purpose of this chapter, the
following are game animals: Elk, deer, rabbits, gray, black and
fox squirrels and raccoons; and the following are fur-bearing
animals: opossums, beavers, otter, mink, raccoons, muskrat,
skunk and red fox.
7 Whenever the director finds that the application of this
8 chapter is necessary to the protection and preservation of
9 any other species of wild animals, he may, by formal order,
10 include such other species within the definition of game
11 or fur-bearing animals, as the case may be, for the pur-
12 poses of this chapter. The director shall give notice of this
13 order by publication once each week for two successive
14 weeks in two newspapers of general circulation throughout
15 the state.

Sec. 3. Hunting Deer; Notice to Game Protector of Acci-
dental Killing, etc.; Official Tag for Legally Killed Deer;
Penalties. No person shall hunt, capture or kill any deer in
this state except in open season. A licensed person may

hunt, capture or kill a buck deer with one or both horns
branched, but only during the open season fixed by the
director for the county concerned. The provisions of this
section shall not apply to a licensed owner of deer which
are kept in a park or field sufficiently enclosed reasonably
to prevent escape therefrom.

No person shall:

1. Kill more than one deer in any one open season of
the year;

2. Hunt, pursue, shoot or kill any fawn, doe, or deer
other than a buck with one or both horns branched;

3. Have in his possession the fresh skin or any other part
of a doe, fawn, or illegally killed buck;

4. Chase or hunt deer with dogs, or permit his dogs to
hunt or chase deer;

5. Kill a deer that is being chased by, or is fleeing from dogs;

6. Catch, capture or kill any deer by means of poison baits,
salt lick, natural or artificial, trap or snare, or devices of any
kind;

7. Hunt, pursue, catch or kill a deer between sunset on one
day and sunrise of the next day;

8. Kill or wound a deer while the deer is in a stream, lake or pond;

9. Participate further in the hunt after he has killed his legal limit of deer if he has firearms of any description in his possession;

10. Hunt deer with a shotgun using ammunition loaded with more than one solid ball, or rifles using rim-fire ammunition of less than twenty-five calibre.

A person who kills or wounds a deer by accident, such as by striking it with an automobile, or has knowledge that a deer is in distress for any reason whatever, shall promptly notify a game protector or other proper officer of the fact.

Any person who kills a deer during the open season shall securely attach to its head an official tag furnished by the director. The director shall furnish such official tags and shall distribute them to game protectors, county clerks, sheriffs, state police, and other qualified officers. The tag shall specify the date and place of killing, the person by whom killed, the person hunting with him at the time, and the length and branching of horns or antlers. The person who
killed the deer shall mail a duplicate of the tag to the director within five days after the deer is killed. The deer shall not be removed from the county where killed until the tag is attached, and is checked and countersigned by a game protector or other duly authorized officer or agent of the director.

Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred nor more than three hundred dollars, and confined in the county jail not less than thirty days, nor more than ninety days: Provided, however, That any person who kills a deer illegally during the open season therefore and voluntarily reports same to a game protector or other officer shall be fined not less than fifty dollars nor more than one hundred dollars.

Sec. 3-a. Capture or Killing of Dogs Chasing Deer. A game protector, or other duly authorized officer, shall take into possession any dog known to have hunted or chased deer and shall advertise in a newspaper of general circulation in the county, that he has the dog in his possession, giving a description of the dog and stating the circumstances under which it was taken.
He shall hold the dog for a period of ten days, and shall report the facts in full to the director.

If, within ten days, the owner does not claim the dog, the game protector or other officer shall destroy it. In this event the cost of keep and advertising shall be paid by the director.

If, within ten days, the owner claims the dog, he may repossess it on the payment of the cost of advertising and the cost of keep, not exceeding fifty cents per day.

A game protector, or other duly authorized officer, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill such dogs.

Sec. 5. Hunting Squirrels. No person shall, in any county of this state, hunt, capture or kill, grey, black or fox squirrels, or have in his possession a squirrel or any part thereof, including fresh pelts, except during the open season for that county, as fixed by the director.

Sec. 6. Hunting or Possession of Fur-bearing Animals. No person shall, in any county of this state, hunt, capture, trap or kill any fur-bearing animals as defined by section one of this article, or have in his possession any fur-bearing animal, or part thereof, except during the open season for that county.
A person shall not have in his possession the fresh skin, or part thereof, of any fur-bearing animal within the period beginning thirty days after the end of the open season and ending with the first day of the next succeeding open season for such animal in that county.

Sec. 7. This section is hereby repealed.

Sec. 8. This section is hereby repealed.

Sec. 9. This section is hereby repealed.

Sec. 10. This section is hereby repealed.

Sec. 11. Hunting Red Foxes; Chasing for Sport. No person shall pursue or injure a red fox in any county of this state, except during the open season for that county: Provided, however, That the red fox may be chased for sport only, in the counties wherein the red fox is protected; but a person may, at any time, pursue, capture or kill, except by means of poison, a red fox upon his own land, or upon lands as to which he is a bona fide tenant or resident. A person shall not blow up a den or burrow of red foxes in which a red fox has taken refuge.

Sec. 12. Unlawful Methods of Hunting. No person shall, at any time:

1. Hunt wild animals at night by the use of a spot or jack
light, or a light of any kind, except such animals as take
refuge in trees;
2. Destroy or cut down a tree in which animals den or
take refuge, merely for the purpose of taking such animals;
3. Kill wild animals or wild birds from an automobile,
or other land conveyance, or from a motor-driven craft upon
any of the waters of the state.
4. Kill squirrels from a craft upon any waters of the state.

Sec. 14. Traps and Snares. No person shall, at any time,
set or maintain a snare, or other trap upon the improved or
enclosed lands of another without the express permission of
the owner or tenant of such lands. A person shall not set
or maintain a steel or spring bear trap, or a deadfall upon any
lands not his own, and then only on lands enclosed by a fence.

Article 5. Birds and Fowls.

Section 2. Hunting Migratory Game Birds. No person shall
hunt, pursue, catch, capture or kill any wild duck, goose, brant,
plover, snipe, woodcock, ortolan, sandpiper, or any other
migratory game bird included in the terms of convention
between the United States and Great Britain for the pro-
tection of such birds, during the closed season prescribed
for such birds by federal regulation adopted by the Secretary of Agriculture and approved by the President of the United States pursuant to the authority conferred by the act of Congress entitled "An act to give effect to the convention between the United States and Great Britain for the protection of migratory birds, concluded at Washington, August sixteenth, nineteen hundred sixteen, and for other purposes," and known by the short title of the "Migratory Bird Treaty Act," or by any amendment thereof.

Sec. 4. Hunting Wild Turkeys; Report to Director. No person shall, in any county of this state, hunt, pursue, capture, wound, or kill any wild turkey, or have in his possession any wild turkey, or part thereof, except during the open season for that county. No person shall, during the open season, hunt, pursue, catch or kill wild turkey between sunset of one day and sunrise of the next day or kill more than one wild turkey in any open season.

A person who kills a wild turkey in this state shall report the kill to the director in writing, within twenty days, setting forth the date, time and place where killed, and whether the turkey was male or female.
Article 6. Fish and Other Aquatic Life.

Section 1. Game Fish Defined; Open Seasons and Creel Limits; Special Regulations. For the purpose of this chapter the following are game fish: black bass, green bass, white bass, willow bass, trout, white salmon, jack salmon, jack fish, wall-eyed pike, muskallonge, pickerel and perch.

The director, for the purpose of protecting and conserving the fish and other aquatic animal life of the state, as provided by section eight, article three of this chapter, may establish open and closed seasons and creel limits on any or all fish, and regulate the taking and use of all other aquatic life. But water dogs and big salamander shall not be protected at any time.

The director may prescribe and enforce special regulations to apply to a stream or any part thereof, that he places under observation for scientific purposes. Regulations may include the filling out and filing of special reports by persons fishing in the stream.

Sec. 2. Fishing Out of Season Prohibited. No person shall in any county of this state fish for, catch, take, kill, destroy in any manner, or have in his possession, any fish or other
Sec. 3. This section is hereby repealed.

Sec. 4. Minimum Lengths of Fish and Creel Limits. The director shall, by regulation, prescribe minimum lengths and creel limits for the various species and kinds of fish of the state. Fish less than the minimum length so prescribed shall be returned to the water, with as little injury as possible, immediately after being caught.

Sec. 5. Unlawful Devices and Methods of Fishing. No person shall kill, catch, or attempt to kill or catch any fish at any time, by:

1. The use of seines, nets or traps, or devices of like nature without the written consent of the director. A person may use a seine not more than six feet in length, nor more than four feet in depth for securing minnows for angling, other than minnows classed by the director as game fish. A dip net so used shall not exceed thirty-six square feet in overall area, and its mesh shall not be smaller than one-quarter inch;
2. Draining water out of any pool, pond or stream with intent to take or injure fish;
3. The use of dynamite, or any like explosive or explosive mixture;
4. The use of a poisonous drug or substance;
5. The use of electricity or lime;
6. The use of firearms;
7. Gigging, spearing, gaffing, or grappling, except the director may permit gigging of non-game fish in a stream under the supervision of a representative of the director, other than during the months of April, May and June;
8. Any other means other than by rod, line and hooks, with natural or artificial lures.

A person shall not sell or purchase a seine more than six feet in length without the prior written permission of the director.

The provisions of this section shall not prevent the director from using such methods of catching fish as he shall find necessary and proper for the purposes of propagation and protection.

Sec. 17. Offenses Generally; Dynamiting or Poisoning Fish;
2 Penalties. A person violating any provision of this article, the punishment for which is not prescribed, shall be guilty of a misdemeanor, and upon conviction thereof, shall, for each offense, be fined not less than twenty nor more than one hundred dollars, or confined in jail not exceeding thirty days or both, or both such fine and imprisonment in the court's discretion.

Dynamiting of fish or the killing of fish by any like explosive or explosives or poisonous mixture placed in stream or other waters of this state for the purpose of killing or taking fish, shall be a felony, punishable upon conviction thereof by imprisonment in the penitentiary for not less than six months, nor more than three years, and in the court's discretion, by an additional penalty of not more than five hundred dollars fine.


Section 1. Necessity for License. No person above the age of fifteen years, who is a citizen of the United States, shall at any time, hunt, pursue, trap for, kill or catch any wild animals, or wild birds, or fish, kill or catch any fish or frogs, of any kind whatsoever, without first having secured a
license, and then only during the respective open seasons.

6 A bona fide resident landowner of this state, or his resident

7 children, or his bona fide resident tenant, may hunt, kill,

8 pursue or catch any of the game animals and game birds or

9 fish for, capture or kill any of the fish or frogs of this state

10 on his own land during the open season therefor in accord-

11 ance with regulations and provisions of law applying to

12 such hunting and fishing, without obtaining a license so to

13 do, if said land shall not have been designated and made, in

14 manner provided by law, a state game refuge or reserve.

15 No person under the age of fifteen years shall hunt upon

16 the lands of another unless accompanied by a licensed adult.

17 A resident or non-resident member of any club or organiza-

18 tion or association of persons owning or leasing a game or

19 fish reserve in this state shall not hunt or fish therein without

20 securing a license.

Sec. 2-h. Duplicate Licenses. Whenever any license is

2 lost the person to whom the license was issued may make

3 application for a duplicate license to the county clerk from

4 whom the license was purchased. The application shall be
accompanies by a fee of fifty cents and an affidavit setting forth the circumstances.

A county clerk issuing a duplicate license shall indicate on the face of the license and on the stub that it is a "duplicate" and shall also show the original license number thereon.

The county clerk shall report the duplicate issued and attach the said affidavits to his regular monthly license report, together with the fees so collected.

Sec. 3. Application For; to Whom Made. A person eligible for a license under sections two-a to two-f, inclusive, of this article shall make application as follows:

1. A resident of this state shall make application to the clerk of the county court in any county of the state;

2. A non-resident of this state may make application to the clerk of the county court of any county in this state;

3. A citizen of Ohio applying for a class E license shall make application to the clerk of the county court of a county bordering upon the State of Ohio;

4. An alien, making application for a class F license, shall first apply to the director for the issuance of a permit to obtain a class F license. The director shall issue the
permit if he is satisfied that the applicant is legally entitled
to a class F license and has bona fide intentions to exercise
the license in accordance with the provisions of this chapter.
After issuance of the permit an alien may apply to the clerk
of the county court of any county in the state for the
issuance of a class F license in the same manner as a non-
resident of this state. A permit shall remain in force until
revoked.

Sec. 11. Allocation of Funds for Forests and Refuges. The
director shall each year, allocate ten percent of the total
revenue obtained from all classes of hunting and fishing
licenses for the purchase of lands and the maintenance of
state forests, and game and fish refuges. Not more than
fifty percent of the amount so allocated may be expended
for patrolling such lands, protecting wild game and fish
thereon, the improvement of wildlife habitat, and other
necessary maintenance and operation.

Article 8. State Forests, Game and Fish Refuges and Public
Shooting Grounds.

Section 1. Acquisition of Suitable Lands by Director;
Maintenance Thereof as State Forests or Game and Fish
Refuges. The director may with the consent of the governor purchase, in the name of the state, out of funds set aside for the purpose, or out of any unused funds in his hands, lands suitable for forest culture; state forests; fish refuges; game refuges or public shooting grounds. Purchase may be made on terms requiring not less than one-third of the purchase price to be paid at the time of the conveyance with the residue to be paid in not less than one or two years after date. Without the consent of the governor not more than five dollars per acre shall be paid for lands to be used as game refuges and public shooting grounds. The commission may also receive the gift of such lands by deed or bequest. In all cases of transfers to the state, the fee simple title shall pass to the state, except for the reservation of minerals and mining rights to remove such minerals.

The director shall protect, preserve and maintain lands so acquired as state forests, game or fish refuges or public shooting grounds, for the propagation and distribution of forest trees and for the protection, propagation and distribution of the fish, wild animals, and birds thereon. He may prescribe and enforce rules and regulations consistent with the laws of
the state, to carry out that objective. The director may pre-
scribe and enforce rules prohibiting all fishing and hunting,
pursuing, catching, trapping, capturing and killing of fish,
wild animals and birds upon such state forests, and game and
fish refuges, for such length of time as he may deem proper.

The director may provide special regulations and open sea-
sons for the taking of any wild birds, wild animals or fish on
such lands in the manner provided by article three, section
eight of this chapter.

Sec. 2. Establishment of Game Refuges and Shooting

Grounds Thereon; Leasing Lands Therefor. The director shall
establish and maintain game refuges and public shooting
grounds on lands purchased, leased, or given for this purpose.

Upon such state-owned forests, game refuges or other state-
owned or leased lands under its administration, or lands pur-
chased from funds derived from the sale of hunting and fish-
ing licenses for the establishment of game refuges and public
shooting grounds, or upon lands purchased in cooperation
with any agency of the federal government or leased there-
from or managed cooperatively therewith, the director shall
regulate public shooting, and limit the number of game birds,
game animals or game fish, which may be taken from such
areas open to public shooting in any year. The director may
establish special open seasons on any such lands, and may close
any such areas, or parts thereof, to public shooting.

It shall be unlawful at any time to hunt, pursue or molest in
any manner, any animals, birds or fowls on that section of any
game refuge and public shooting grounds designated as the
game refuge, except that any legally constituted game pro-
tector or game refuge keeper or warden may hunt, pursue,
catch and kill in any manner predatory animals and preda-
tory birds thereon.

On the boundary of each state game refuge, there shall be
posted in conspicuous places, not more than one hundred and
fifty yards apart, notices bearing the following words: "State
game refuge—hunting is unlawful," and such other informa-
tion or rules and regulations as the director may deem advis-
able. On the boundary line of the area surrounding any such
refuge which has been established as a public shooting grounds,
the director shall have posted in conspicuous places, not more
than one hundred and fifty yards apart, notices bearing the
following words: "Public shooting grounds", together with
information as to when hunting is legal on such tract.

The director shall also have the power to lease lands for this purpose for not less than ten year periods, the rental price thereof not to be more than the amount of the taxes on such land, and in no event to exceed ten cents per acre per annum.

Sec. 3. Game Refuges on Lands not Owned by the State.

The director may, with the consent of the owner, set apart any tract of land of one hundred acres or more in the state as a game refuge. When such lands have been set apart, the director shall manage them in the same manner and for the same purposes as game refuges owned by the state. Such lands not owned by the state and now operated by the director as game refuges shall, at the expiration of the agreement, be reorganized as game refuges or be discontinued.

Sec. 4. This section is hereby repealed.


Section 9. Restaurants and Other Facilities at Recreational Areas. The director may, in connection with recreational areas in state parks and state forests, operate commissaries, restau-
Article 9. Forests.

Section 1. Powers of Directors Over Forests; State Forester and Local Forest Protectors; Compensation. The director shall have power and authority to protect the forests of the state against injury or destruction by fire, fungus or other disease, to study and make recommendations as to the proper methods for such protection and for forest culture, and to disseminate such information throughout the state. For these purposes the director shall appoint a state forester, who shall be a person duly qualified with technical forestry training and a graduate of a reputable school of forestry, with actual experience in handling forestry field organization.

The director shall appoint forest protectors for such forest fire districts as he designates. Local forest protectors shall hold office during the pleasure of the director. The director shall fix the salary to be paid to the state forester, and the compensation to be paid to local forest protectors and other employees.
Sec. 4-a. Forest Fire Seasons; Permits for Setting Fires;

2. Invalidity and Suspensions of Permits. The period of each
year between March twentieth to May twentieth and October
fifteenth to December fifteenth are hereby designated as forest
fire seasons. No person shall, during the fire season, set on fire
or cause to be set on fire any forest land, grass, stubble, brush
or slash, either his own or the property of another, without
first securing a written or printed permit from the director or
his duly authorized agents. The director may prescribe the
conditions upon which the permit will be issued and the pre-
cautions to be observed in setting such fires.

This section shall not be construed to require a permit for
the burning of grass, stubble, brush or slash in small quanti-
ties and under adequate protection outside of, and not within,
three hundred feet of any forest land. If any such burning
results in the escape of fire and injury to the property of
another such escape shall be prima facie evidence that the
burning was not safe and was in violation of this section.

The director may refuse, revoke or postpone permits when
necessary to prevent danger to life or property. A permit ob-
tained through wilful misrepresentation shall be invalid. If
the director finds that conditions in any locality of the state
so require, he may suspend any or all permits issued under this
section and prohibit absolutely the use of fires.

Sec. 5. Failure of Person to Extinguish Fire Started or
Used by Him; Penalty; Starting Fire on Lands of Another;
Penalty; Throwing Lighted Matches, etc., on Forest Land
During Fire Season. Any person who, by himself, or by his
servants, agents or guides, or as the servant, agent or guide
of any other person, shall build any fire, or use an abandoned
fire, in a field, public or private road, or adjacent to, or in any
woods or forest in this state, shall, before leaving such fire,
totally extinguish the same; and upon failure to do so, such
person or persons shall be deemed guilty of a misdemeanor,
and, on conviction thereof, shall be fined not less than twenty-
five dollars nor more than one hundred dollars and the cost of
the prosecution, and, upon default in paying such fine and
costs, shall be confined in the county jail not more than ninety
days unless such fine and costs be sooner paid. A person who,
in the course of clearing property of brush, undergrowth,
leaves, dry grass or other harmful debris of any kind, uses
incendiary means on the property of another, or who for any
purpose wilfully starts a fire on the property of another, and as a result causes damage or destruction to the natural resources of such property or of adjacent property, shall be guilty of a felony, and upon conviction shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned for not more than one year, or both, in the discretion of the court.

A person shall not during the fire season throw any lighted matches, cigars, cigarettes, fire crackers, or other lighted material on any forest land, private road, public highway or railroad right-of-way within this state.

Sec. 6-a. Stationary Engines; Escape of Fire from; Penalty.

During the fire season of each year no person, firm or corporation shall use or operate a saw-mill, steam shovel or other stationary engine which is not provided with an adequate spark arrester and an ash pan kept in constant use and repair, within one-eighth of a mile of any forest land. Escape of fire from such an engine shall be prima facie evidence that such appliance was not maintained properly in compliance with this section. A person, firm or corporation violating this section shall be guilty of a misdemeanor, and, upon conviction
thereof, shall be fined not less than twenty nor more than two
hundred dollars.


Section 1-a. Property Used for Illegal Purposes; Seizure;
Disposition. A game protector or other duly authorized officer,
when he takes a person into custody for violation of a pro-
vision of this chapter, shall also take and impound any
property found in the possession of the accused and susceptible
of use in committing the offense of which the person is
accused. Such property shall include firearms, fishing equip-
ment, traps, boats, dogs, or any other device, appliance or
conveyance.

If the accused is acquitted the property seized shall be
returned. If the accused is convicted, and pays the fine and
costs assessed, the property seized shall be returned, but if
the accused fails to pay the fine and costs, the property shall
be sold at public auction in such manner as the director may
prescribe. The proceeds of the sale shall be applied toward
the payment of the fine and costs. The remainder, if any,
shall be paid to the owner of the seized property.
Whenever a person is convicted of a violation of this chapter a second time, the property seized at the time of arrest, shall in any case be declared forfeited to the state and shall be sold in the manner provided by this section.

Property seized, the use of which is forbidden by this chapter, or which is unfit or unsafe for further use, shall be declared forfeited to the state and shall be disposed of by the director.

Sec. 4. Conspiracy to Violate Game or Fish Laws; Withholding Information; Obstructing Officers; Penalty; Provisions of Act Severable. A person who shields or conspires with another in the commission of a game or fish violation or who encourages a game or fish violation, or who, upon injury, withholding information from the game protector or other officer, or who hinders, obstructs, or interferes with, or attempts to hinder, obstruct or interfere with a game protector, or other officer in the performance of his duties herein shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than twenty-five dollars.

The provisions of this act shall be construed as severable,
and should any provision be held unconstitutional, or for any
other reason invalid, the remaining provisions shall not be
affected thereby.

All acts, or parts of acts in conflict with the provisions of
this act are hereby repealed.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Wiseman  
Chairman Senate Committee

Hezekiah Jackson  
Chairman House Committee

Originated in the...Senate

Takes effect...Senate...passage

Charles Fairley  
Clerk of the Senate

McDowell  
Clerk of the House of Delegates

William A. Horton  
President of the Senate

James E. Thomas  
Speaker House of Delegates

The within...this the...

day of...1939.

This received my hand.

[Signature]