

paid or given (the said first conveyance, gift, grant, demise, charge, or assurance, not having been revoked or altered, according to the power and authority reserved or expressed in the said secret conveyance, assurance, gift or grant), then the said former conveyance, gift, grant, demise, charge or assurance of the said lands, tenements or hereditaments, shall be void and of no effect, as against such subsequent bargainees, vendees, lessees, grantees, and every of them, their heirs, successors, executors, administrators and assigns, and every person or persons who may lawfully have or claim any thing, by, from, or under them, or any of them.

15. *Provided always*, That nothing in this act contained, shall be construed to impeach, defeat or make void, any conveyance, assignment, grant or sale of any lands, tenements or hereditaments, goods or chattels made, for a good consideration, and *bona fide*, to any person not having at the time of such conveyance, assurance or sale, any notice or knowledge of such covin, fraud, or collusion, as aforesaid; and also that no mortgage, made *bona fide* and without fraud or covin, and upon good consideration, shall be impeached or impaired by this act; but every such mortgage shall have like force and effect, as if this act had not been made.

Deeds and mortgages taken *bona fide* and on good consideration, not affected. Ib. § 6.

16. All conveyances and transfers of property, whether real or personal, made by any person holding, or who has held any office of trust or profit under the authority of this state, and who, while such officer has embezzled, or shall embezzle, or fraudulently dispose of any of the money, property, or securities committed to his keeping, with intent to defraud the state, or any county thereof, or any city, borough, township, or body corporate; and all mortgages and liens by judgments confessed, or other liens upon said property voluntarily given by such officer, whether upon valuable consideration or not, shall be deemed as against this state; and such county, city, borough, township, or body corporate, to be fraudulent and void in law; *provided*, that nothing in this act contained shall affect the rights of a *bona fide* purchaser, mortgagee or judgment creditor for valuable consideration, without notice that said officer has so embezzled or made such fraudulent disposition of money, property or securities committed to his keeping.

Conveyances by officers who have embezzled public property, void. R. S. 864.

Game and Game Fish.

1. Carrying guns, where prohibited.
2. Hunting deer, where prohibited.
3. Forfeiture if non-resident.
4. Who deemed guilty.
5. What traps prohibited.
6. Setting loaded guns prohibited.
7. Owners excepted.
8. Watching with guns at night, where prohibited.
9. Remedy against non-residents.
10. Hunting or gunning after geese, ducks, etc., with stools or decoys.
11. Not lawful to hunt geese, ducks, etc., with light at night.
12. Penalty.
13. Killing and hunting geese, etc., in Barnegat bay.
14. Hunting on Sunday prohibited.
15. Fishing with hook and line prohibited on Sunday.
16. Killing of water fowl during certain seasons prohibited in Brick township, Ocean county.
17. Penalty for violation of act.
18. Actions brought under Sec. 1 to be in trespass.
19. Penalty for hunting rabbits with ferrets.
20. When deer shall not be killed.
21. When squirrels shall not be killed.
22. When rabbits shall not be killed.
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24. When plover and gray snipe shall not be killed.
25. When woodcock shall not be killed.
26. When quail shall not be killed.
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35. When trout shall not be caught.
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37. Penalty for catching or killing fish by medicated bait, etc.
38. Bass, pike or pickerel to be caught only with hook and line or scroll.
39. Fish not to be caught by drawing off the water.
40. Persons may have or sell pheasant and quail five days after time limited for killing.
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 53. Hunting and fishing, when prohibited.
 54. Repealer of part of former act.
 55. Fishing with net, seine, etc., prohibited in waters stocked by commissioners.
 56. Fishing with hook and line prohibited for three years in lakes, etc., stocked by commissioners.
 57. Act to apply to waters stocked by individuals.
 58. When brook trout not to be caught.
 59. When black bass and perch not to be caught.
 60. Unlawful to take fish from waters stocked by individuals.
 61. No deleterious substances to be placed in streams for catching of fish.
 62. How penalties applied.
 63. Fish may be caught with hook and line, etc., in certain waters.
 64. Fishing with nets, etc., above tide water prohibited.
 65. Appointment of fish wardens. Powers. Duties. Term of office, etc.
 66. Penalty for neglect of duty.
 67. Wardens to be appointed by the governor.
 68. Repealer.
 69. When unlawful to take terrapin.
 70. Penalty.
 71. Action by summons or warrant.

An act for the preservation of deer and other game, and to prevent trespassing with guns.

Rev. 25, 673.

R. S. 12.

Approved April 16, 1846.

Carrying guns, where prohibited.

1. If any person or persons shall carry any gun on any land not his own, and for which the owner pays taxes, or is in his lawful possession, unless he hath license or permission in writing from the owner or owners or legal possessor, every such person so offending, and convicted thereof, either upon the view of any justice of the peace within this state, or by the oath or affirmation of one or more witnesses, before any justice of the peace of either of the counties, cities, or towns corporate of this state, in which the offender or offenders may be taken or reside, he or they shall, for every such offence, forfeit and pay to the owner of the soil or his tenant in possession the sum of five dollars, with costs of suit; which forfeiture shall and may be sued for and recovered by the owner of the soil or tenant in possession before any justice of the peace in this state, for the use of such owner or tenant in possession. (a) (See *Sec.* 18).

Hunting deer, where prohibited.

2. If any person shall hunt or watch for deer with a gun, or set in any dog or dogs to drive deer or any other game, on any lands not his own, and for which the owner or possessor pays taxes, or is in his lawful possession, unless he hath license or permission in writing from such owner or owners, or legal possessor, every such person so offending, and being convicted thereof in manner aforesaid, shall for every such offence forfeit and pay to the owner of the soil or tenant in possession the sum of five dollars, with costs of suit; *provided*, that nothing herein contained shall be construed to prevent any person carrying a gun upon the highway in this state.

Forfeiture.

Forfeiture if non-resident.

3. If the person or persons offending against this act be non-residents of this state, he or they shall forfeit and pay for every such offence fifteen dollars, and shall forfeit his or their gun or guns to any person or persons who shall inform and prosecute the same to effect, before any justice of the peace in any county of this state, wherein the offender or offenders may be taken or apprehended.

Who deemed guilty.

4. And, for the better and more effectual conviction of offenders against this act, *be it enacted*, That any and every person or persons in whose custody shall be found, or who shall expose to sale, any green deer skins or fresh venison killed at any time after the first day of January, and before the first day of September aforesaid, and shall be thereof convicted by the oath or affirmation of one or more credible witnesses, shall be deemed guilty of offending against this act, and be subjected to the penalties of killing deer out of season.

What traps prohibited.

5. If any person or persons within this state shall set any trap, or other device whatsoever, larger than what is usually and commonly set for foxes and muskrats, such person setting such trap or other device shall pay the sum of fifteen dollars, and forfeit the trap or other device, and shall also be liable to make good all damages any person shall sustain by setting such trap or other device; and the owner of such trap or other

(a) The action must now be in *trespass* instead of debt, *show that the plaintiff is clearly within the act, Chew v. Buck v. Danzenbacker*, 8 Vr. 359. In an action for this penalty the state of demand and all the proceedings must *Thompson*, 4 Hal. 249.

device, or person to whom it was lent, shall be esteemed the setter thereof, unless it shall be proved on oath or affirmation what other person set the same, or that such trap or other device was lost by said owner or person to whom it was lent, and absolutely out of his power; and that the said trap or other device shall be broken and destroyed in the view and presence of the justice of the peace before whom they are brought.

6. If any person or persons within this state shall set any loaded gun in such manner as that the same shall be intended to go off or discharge itself, or be discharged by any string, rope, or other contrivance, such person or persons shall forfeit and pay the sum of twenty dollars, to be recovered by action of debt by any person who shall sue for the same, and on non-payment thereof, shall be committed to the common jail of the county for six months. Setting loaded guns prohibited.

7. Nothing in this law shall be construed to extend to restrain the owners of parks or of tame deer from killing, hunting, or driving their own deer. Owners excepted.

8. If any person or persons within this state shall watch with a gun on any unenclosed land within two hundred yards of any road or path, in the night time, whether the said road is laid out by law or not, or shall stand or station him or themselves upon or within two hundred yards of any road as aforesaid, for shooting at deer driven by dogs, he or they so offending shall on conviction forfeit and pay the sum of fifteen dollars for every such offence, to be recovered by action of debt as aforesaid, and pay all damages. Watching with guns at night, where prohibited.

[Sec. 9 and 10 repealed by act of March 27, 1874].

9. SEC. 11. If any person or persons not resident in this state shall offend against any of the provisions of the first section of this act, it shall and may be lawful for the owner or owners of the said lands, or the possessor or possessors thereof, to apprehend any and every such person or persons so offending, and take him or them before a magistrate as soon as conveniently may be, in order that he or they may be dealt with according to law; and every such person who may perform this service shall be entitled to the same assistance and protection, and subject to the same restrictions and liabilities, as a constable would be on the same occasion. (a) Remedy against non-residents.

Supplement.

Approved February 14, 1852. P. L. 1852, p. 38.

10. SEC. 1. That it shall not be lawful for any person, hunting or gunning after geese, ducks, brant, and for that purpose using stools or decoy geese, ducks or brant, to place the boat, sneak-box or other floating vessel in which he lies in wait to kill the said geese, ducks and brant, at a distance more than three rods from ice, or from marsh, or meadow bank, or heaped sea weed, or sand bar not covered with water at ordinary high tide. Hunting or gunning after geese, ducks, etc., with stools or decoys.

11. SEC. 2. That it shall not be lawful for any person, with intent to capture or kill geese, ducks or brant, in and about the waters aforesaid, to hunt after or pursue them with a light at night. Not lawful to hunt geese, ducks, etc., with light at night.

12. SEC. 3. That every person offending against the provisions of this act shall, for each offence, forfeit and pay the sum of fifteen dollars, to be sued for and recovered with costs, in an action of debt before any justice of the peace in this state, by any person who shall sue for the same. Penalty.

Supplement.

Approved March 23, 1859. P. L. 1859, p. 636.

13. SEC. 1. That from and after the passage of this act, it shall not be lawful for any person or persons to kill, capture or hunt in or about the waters of Barnegat bay, or Manasquan river, any geese, brant, or ducks at night, that is to say, after sunset or before daylight, nor shall it be lawful at any time to kill, capture or hunt any geese, brant, or ducks in or about the waters aforesaid, except only between the fifteenth day of October and the fifteenth day of April, yearly and every year hereafter. Killing and hunting geese, etc., in Barnegat bay or Manasquan river.

(a) A justice of the peace, who is the owner of the land trespassed on, cannot convict such trespasser on his own view, *Schroder v. Ehlers*, 2 Vr. 44.

P. L. 1866, p. 681.

Hunting on Sunday prohibited.

Supplement.

Approved March 26, 1866.

14. SEC. 5. That hereafter any person who shall hunt with a gun, or with a dog and gun, or with any kind of fire-arm or weapon, or shall in any way kill, take or destroy with any trap, snare, or other device whatsoever, any bird or animal whatever, on the Sabbath day, commonly called Sunday, except those who observe the seventh day of the week as the Sabbath gunning upon their own lands, shall be liable to a penalty of twenty-five dollars for each and every offence, one-half of said penalty to be paid to the complainant, and the remainder to be paid to the overseer of the poor of the township where the offence was committed, for the use of the poor of said township. (The other sections of this supplement repealed by act of March 27, 1874. See *Sec. 25, 26, &c.*)

P. L. 1867, p. 430.

Fishing with hook and line on Sunday prohibited.

Supplement.

Approved March 27, 1867.

15. SEC. 1. That the provisions of the fifth section of the supplement to the act approved March twenty-sixth, anno domini, eighteen hundred and sixty-six, to which this is a further supplement, be and they are hereby extended so as to include all persons who shall fish, with hook and line, for any kind of fish whatsoever, on the Sabbath day, except those mentioned in the said section of said supplement, and that all persons so fishing on the Sabbath day shall be subject to the same fines and penalties, and shall be recovered in the same manner as in said supplement stated.

P. L. 1870, p. 835.

Killing of water fowl prohibited during certain seasons in Brick township, Ocean county. [P. L. 1872, p. 516.]

Supplement.

Approved March 17, 1870.

16. SEC. 1. That it shall not be lawful for any person or persons to kill, destroy or take, on the waters or about the shores of such portions of Metedeconk river, Manasquan river, the Beaver Dam creek, Kettle creek, and their several branches and environs, as lie within the present limits of the township of Brick, in the county of Ocean, any wood duck, black duck, teal or other wild water fowl, except only between the first day of [September] and the first day of April yearly and every year.

Penalty for violation of act.

17. SEC. 2. That if any person or persons shall offend against the provisions of the first section of this act, he, she or they so offending, shall forfeit and pay for every wood duck, black duck, teal or other water fowl, ten dollars for each and every offence, to be sued for and recovered in an action of debt, with costs of suit, by any person who shall sue for the same, before any justice of the peace of the said county, one-half of the said penalty to be paid to the complainant, and the remainder to the overseer of the poor, for the use of the poor of said township; and any person in whose hands or custody any wood duck, black duck, teal or other water fowl shall be found which shall have been killed, contrary to the provisions of this act, shall be deemed, taken and adjudged to be the killer and destroyer of such game, and liable to the penalties aforesaid.

Supplement.

Approved March 21, 1873.

P. L. 1873, p. 58.

Actions brought under Sec. 1 to be trespass.

WHEREAS, many irresponsible persons are trespassing with guns on lands not their own, doing much damage to stone fences, and so forth, in search of game, for which the owners have no redress on account of the action now being debt; therefore,

18. SEC. 1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That hereafter all actions brought under the first section of the act for the preservation of deer and other game, and to prevent trespassing with guns, approved April sixteenth, one thousand eight hundred and forty-six, shall be actions of trespass.

P. L. 1873, p. 151.

Penalty for hunting rabbits with ferrets.

Supplement.

Approved April 4, 1873.

19. SEC. 1. That hereafter it shall not be lawful for any person or persons to hunt for rabbits with ferrets, or to capture or kill any rabbit or rabbits by means of any ferret or ferrets, and whoever shall offend

against the provisions of this act, shall forfeit and pay for each and every such offence, the sum of fifteen dollars, to be sued for before any justice of the peace, and recovered in an action of debt with costs of suit by any person who shall sue for the same, and on non-payment thereof, such offender shall be committed to the workhouse or common jail of the county for any period not exceeding sixty days, and until said fine and costs are paid.

An act to amend and consolidate the several acts relating to game and game fish.(1)

Approved March 27, 1874. P. L. 1874, p. 137.

20. SEC. 1. That no person shall kill or pursue in any part of this state any buck, doe, fawn or wild deer, save only from the fifteenth day of October to the first day of December in any year, and any person offending against any of the provisions of this section shall be deemed guilty of a misdemeanor, and shall be liable to a penalty of fifty dollars for each buck, doe or fawn so killed or pursued, and may be proceeded against in any county of the state wherein he may be arrested having the same in his or her possession; *provided*, however, that any person may sell or have in his or her possession the buck, doe or fawn aforesaid, between the fifteenth day of October in any year and the first day of December next following, without liability to the penalty herein imposed.

When deer shall not be killed.

Penalty.

Proviso.

21. SEC. 2. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any gray, black or fox squirrel between the first day of January and the first day of July in each year, under a penalty of five dollars for each and every squirrel so killed or had in possession.

When squirrels shall not be killed.

Penalty.

22. SEC. 3. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any hare, commonly called rabbit, between the first day of January and the first day of November in any year, under a penalty of five dollars for each and every hare or rabbit so killed or had in his possession.

When rabbits shall not be killed.

Penalty.

23. SEC. 4. That no person shall at any time kill any wild duck, brant or goose with any device or instrument known as a swivel or punt gun, or with any gun other than such guns as are habitually raised at arm's length and fired from the shoulder; or shall use any net, device, instrument, or gun other than such gun as aforesaid with intent to capture or kill any such wild duck or goose, under a penalty of fifty dollars.

How wild duck, brant or geese shall be killed.

Penalty.

24. SEC. 5. That no person shall kill or expose for sale, or have unlawfully in his or her possession after the same has been killed, any upland or grass plover between the first day of January and the first day of August in any year, under a penalty of ten dollars for each bird so killed or had in his possession; no person shall kill, expose for sale, or have unlawfully in his or her possession any "Wilson" or gray snipe between the first day of May and the first day of October in any year, under a like penalty.

When plover and gray snipe shall not be killed.

Penalty.

25. SEC. 6. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any woodcock between the first day of January and the fourth day of July in any year, under a penalty of ten dollars for each bird so killed or had in possession.

When woodcock shall not be killed.

Penalty.

26. SEC. 7. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any quail or Virginia partridge between the first day of January and the first day of November in any year, under a penalty of fifteen dollars for each bird so killed or had in possession.

When quail shall not be killed.

Penalty.

[Sec. 8 repealed. See Sec. 51].

27. SEC. 9. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any pinnated grouse or wild turkey, commonly called prairie chicken, prior to the first day of November, anno domini one thousand eight hundred and

When prairie chicken shall not be killed.

(1) By a supplement approved February 10, 1875, (P. L. 1875, p. 171), it is unlawful for any person with net, seine, trap, fyke or gilling net, set net, pot or gun, to take or catch fish in the north branch of the Rancocas creek, in the county of Burlington, commencing at the mill dam at Mount Holly and extending up said branch to its beginning. And by a supplement approved April 8, 1875, (P. L. 1875, p. 79), a like prohibition to fishing in the south branch of Rancocas creek commencing at Lumberton and extending up said branch to its beginning.

- Penalty. eighty, under a penalty of fifty dollars for each bird so killed or had in possession; and subsequent to the date heretofore mentioned, it shall only be lawful to hunt and kill pinnated grouse or prairie chicken between the first day of November and the first day of January in any year, under a penalty of twenty dollars for each pinnated grouse or prairie chicken so killed or had in possession.
- When rail and reed bird shall not be killed. 28. SEC. 10. That no person shall kill or expose for sale or have unlawfully in his or her possession after the same has been killed, any rail bird or reed bird, except in the months of September, October and November, under a penalty of five dollars for each and every rail bird or reed bird so killed or had in possession.
- Penalty. Insectivorous birds shall not be killed. 29. SEC. 11. That no person shall, at any time within this state, kill, trap or expose for sale or have unlawfully in his or her possession after the same is killed, any night-hawk, whip-poor-will, sparrow, thrush, lark, finch, martin, barn-swallow, wood-pecker, flicker, robin, oriole, red or cardinal bird, cedar bird, tanager, cat-bird, blue-bird, or any other insectivorous bird, under a penalty of five dollars for each bird killed, trapped, exposed for sale or had in possession.
- Penalty. 30. SEC. 12. That the last section, to wit: section eleven, shall not apply to any person who shall kill any bird for the purpose of scientific investigation or having the same stuffed and set up as a specimen.
- Proviso. Eggs of wild birds shall not be destroyed. 31. SEC. 13. That no person shall rob or destroy the eggs or nests of any wild birds whatsoever, save only those of a predatory character and destructive of game and insectivorous birds, under a penalty of ten dollars for each offence; *provided*, that this section shall not apply to any person who shall collect such eggs for scientific purposes.
- Proviso. Wild pigeons shall not be killed or disturbed on or near the nesting ground. 32. SEC. 14. That no person shall kill, catch, or discharge any fire-arms at any wild pigeon while on its nesting ground, or break up or in any manner disturb such nesting ground, or the birds therein, or discharge any fire-arms within one fourth of a mile of such nesting place at any wild pigeon or pigeons, or shoot at, maim or kill any wild pigeon or pigeons within their roostings, under a penalty of twenty-five dollars.
- What birds shall not be trapped. 33. SEC. 15. That no person shall, at any time or place within this state, kill or take any ruffled grouse, commonly called pheasant or quail, or Virginia partridge, or woodcock, or pinnated grouse, or prairie chicken, or wild turkey, or rail or reed bird, by means of any blind, trap, snare, net or device whatever, under a penalty of ten dollars for each and every such bird so trapped, snared or taken; *provided*, that nothing in this section shall be so construed as to prevent individuals or associations, for protection, preservation and propagation of game, from gathering alive, by nets or traps, with the written consent of the owner of the land, quails or Virginia partridges, from the first day of January in any year to the first day of February next following, for the sole purpose of preserving them alive over the winter.
- Proviso. Speckled trout and bass how to be caught. 34. SEC. 16. That no person shall at any time catch any speckled trout, or bass, with any device save only with hook and line, except for the purpose of propagation or scientific investigation, or place any set lines in waters inhabited by them, under a penalty of twenty-five dollars for each offence.
- When trout shall not be caught. 35. SEC. 17. That no person shall kill or expose for sale, or have unlawfully in his or her possession after the same has been killed, any trout, brook trout, or lake trout, in the months of October, November, December, January and February, under a penalty of ten dollars for each fish.
- Penalty for trespassing on private ground to catch fish. 36. SEC. 18. That any person trespassing on any lands for the purpose of taking fish from any private pond, stream or spring, after public notice on the part of the owner or occupant thereof, such notice being posted adjacent to such pond, stream or spring, shall be deemed guilty of trespass, and, in addition to damages recoverable by law, shall be liable to the owner, lessee or occupant, in a penalty of one hundred dollars for every such offence.
- Catching or killing fish by medicated bait, poison or injurious substances. 37. SEC. 19. That no person shall place in any fresh water stream, lake or pond, any lime or other deleterious substance, or any drug or medicated bait with intent thereby to injure, poison or catch fish, nor place in any pond, lake or stream stocked with or inhabited by trout, bass, pickerel,

pike, sunfish, or perch, any drug or other deleterious substance with intent to kill or catch such trout, bass, or other fish; any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and shall in addition thereto and in addition to any damage he may have done be liable to a penalty of fifty dollars or by imprisonment in the common jail of the county in which such offence is committed, not exceeding three months, or by such penalty and imprisonment both. (See *Sec. 61*).

38. SEC. 20. That no person shall at any time catch or kill in any of the waters of this state, save only with a hook and line or scroll; and no person shall catch or expose for sale, or have in his or her possession after the same has been killed, any black bass, pike or pickerel, between the first day of March and the first day of May, except alive for stocking other waters, under a penalty of twenty-five dollars for each offence.

Bass, pike or pickerel to be caught only with hook and line or scroll. When not to be caught.

39. SEC. 21. That no person shall catch any speckled trout, black bass or other fish in any of the waters of this state by shutting or drawing off any portion of said waters, or by dragging or drawing small nets or seines therein when the waters shall be wholly or in part drawn off except by order of the state fishery commissioners, under a penalty of twenty-five dollars for each offence.

Fish not to be caught or killed by drawing off the water.

40. SEC. 22. That any person may sell or have in his or her possession any ruffed grouse, commonly called pheasant, and quail or Virginia partridge for a period of five days after the time limited for killing the same has expired, and shall not be liable to any penalty under this act; *provided*, he or she shall prove that such birds were killed within the period allowed by this act, or were killed outside the limits of this state at some place where the law did not forbid the killing of the same.

Persons may have or sell pheasant and quail in five days after time limited for killing. Proviso.

41. SEC. 23. That in all cases where the shooting of any game or catching any fish mentioned in this act is entirely prohibited until after a certain fixed term of years shall have expired, by special laws now in force in any county or counties of this state, nothing in this act shall be construed as to alter or invalidate said laws, or to justify or permit the shooting of such game or catching of such fish in said counties at any time within the term of years during which the same it prohibited.

Act not to interfere with special acts forbidding killing of game.

42. SEC. 24. That in all prosecutions against common carriers under this act, it shall be competent for them to show that the prohibited article came into possession in another state or from beyond the United States at some place where the law did not prohibit such possession; and such evidence shall be a valid defence to the prosecution.

Common carriers may prove receiving of goods in other states.

43. SEC. 25. That any judge of the court of quarter sessions, or any mayor, alderman, justice of the peace, police or other magistrate, upon receiving sufficient proof by affidavit that any of the provisions of this act have been violated by any person being temporarily within his jurisdiction, but not residing there permanently, or by any person whose name and residence are unknown, is hereby authorized and required to issue his warrant for the arrest of such person, and to cause him to be committed or held to bail to answer the charge against him; and any such justice or magistrate upon receiving proof or probable cause for believing in the concealment of any game or fish mentioned in this act during any of the periods prohibited, shall issue his search warrant and cause search to be made in any house, market, boat, box, package, car or other building; all courts of quarter sessions are hereby invested with jurisdiction to try and dispose of all and any of the offences against the provisions of this act occurring in the same county.

Who may be arrested for violation of this act.

Search may be made for game believed to be concealed.

44. SEC. 26. That it shall and is hereby made the duty of the several mayors of the several cities, towns and boroughs within this commonwealth, to require their respective police or constabulary force, and it is hereby made their duty as it is hereby made the duty of the several clerks of markets of said cities, towns and boroughs, and any other person or persons, to diligently search out and arrest as for a misdemeanor all persons violating the provisions of this act, by having any game or fish mentioned therein unlawfully in their possession, or vending the same during any of the periods prohibited in this act within such cities, towns or boroughs, and all persons so arrested shall be taken before the mayor, justice, or any police or other magistrate of said cities, towns or boroughs, in which the

All persons to aid in arresting and prosecuting persons violating act.

- arrest is made, who shall proceed to hear and determine as to the truth of the offence charged on the oath or affirmation of one or more witnesses to the same; *provided*, that the officer making the arrest shall be a competent witness; and if the person or persons so arrested shall be found guilty, he, she or they, shall be convicted of a misdemeanor and sentenced to pay the fine or fines, penalty or penalties, imposed by this act, for having such game or fish unlawfully in possession, or vending the same during any of the periods prohibited therein, together with the costs; one-half of said penalty shall go to the person informing, and the other half shall be forthwith paid to the treasurer of the county or city in which the offence was committed, and in default of payment as aforesaid the offender shall be committed to the common jail of the proper county, for the term of not less than one day for each dollar of penalty imposed; *provided*, that said conviction shall be had within six months after committing the offence;
- Proviso. *and provided further*, that the defendant may, on refusing to pay said penalty, enter into a recognizance with one or more sufficient sureties, to answer said complaint on a charge for misdemeanor, before the court of quarter sessions of the peace of the county in which the offence is committed, which court, on conviction of the defendant of the offence charged, and failure to pay the penalty or penalties imposed by this act, together with costs, shall commit said defendant to the common jail of the county for a period of not less than one day for each dollar of penalty imposed.
- Proviso.
- When penalties not recovered, costs shall be paid by county. 45. SEC. 27. That whenever any officer, constable or other person making complaint of the violation of any of the provisions of this act, shall fail to recover the penalty or penalties mentioned therein in any prosecution or suit commenced by him or them pursuant to the foregoing sections of this act, the costs of suit incurred by him or them shall be a charge upon the proper county, and shall be audited and allowed as other county charges are audited and allowed.
- When cases to be tried by the Quarter Sessions. 46. SEC. 28. That in all cases not separately and particularly provided for in other sections of this act, wherever the penalty or penalties mentioned in said act exceed in amount the jurisdiction of the mayor, aldermen or justice of the peace, it shall be the duty of the said mayor, alderman, justice of the peace or other proper officer to let such offender or offenders to bail or mainprise unto the next court of quarter sessions to be held in the said county, and upon conviction thereof, one-half of the penalty recovered shall belong to the person laying information on which the action is brought, and the other half shall be paid to the treasurer of the county in which the offence is committed.
- To whom penalty shall be paid. 47. SEC. 29. That all actions for violation of the provisions of this act, except where otherwise therein directed, shall be brought within six months from the time such violation was committed.
- When actions shall be brought. [SEC. 30 repealed. See Sec. 54].
- Repealer. 48. SEC. 31. That all acts or parts of acts which are inconsistent with this act are hereby repealed.

Supplement.

Approved March 17, 1875.

P. L. 1875, p. 30.

Fish may be taken with set lines in the Delaware north of Reiglesville.

WHEREAS, doubts exist as to the meaning of the sixteenth and twentieth sections of said act, therefore,

49. SEC. 1. That it shall be lawful for any person or persons to place set lines for the taking of fish in the waters of the Delaware river, north of Reiglesville Delaware bridge; anything in the act to which this is a supplement to the contrary notwithstanding.

Supplement.

Approved March 16, 1876.

P. L. 1876, p. 53.

Penalty for killing wood or summer duck during a certain time.

50. SEC. 1. That no person or persons shall kill or expose for sale, or have unlawfully in his or her possession after the same has been killed, any summer duck, commonly called wood duck, between the first day of January and the first day of September in any year, under a penalty of five dollars for each and every bird so killed or had in his or her possession, to be recovered in the way and manner prescribed by the act to which this is a supplement.

Supplement.

Approved April 15, 1876. P. L. 1876, p. 157.

WHEREAS, the several game societies of this state have expended large sums of money in the purchase of game and game fish for the purpose of propagating the same; and whereas, all efforts on the part of said societies have been greatly frustrated and defeated by the taking and killing of such game and game fish by means of traps, snares, nets and other devices; and whereas, for the purpose of assisting in the protection and propagation of said game and game fish;

51. SEC. 1. Be it enacted by the Senate and General Assembly of the State of New Jersey, That no person shall kill or expose for sale or have unlawfully in his or her possession after the same have been killed, any ruffed grouse, commonly called pheasant, between the first day of January and the first day of November in any year, under a penalty of fifteen dollars for each bird so killed or had in possession.

When grouse or pheasants not to be killed.

52. SEC. 2. That no person shall at any time or place, either on his own property or on the property of any other, kill or take any doe, buck, fawn or any sort of deer whatsoever, or partridge, quail, pheasant or grouse of any kind whatsoever, snipe, reed bird, rail bird, by means of any blind trap, snare, net, or device whatever, or setting the same for the purpose hereinbefore mentioned, under a penalty of fifteen dollars for each and every animal or bird so trapped, snared or taken, or any trap or snare so set; provided, that nothing in this act shall be so construed as to prevent individuals or associations from gathering alive by nets or traps any of the animals or birds aforesaid for scientific purposes, or for the sole purpose of protecting, propagating or preserving them alive over winter.

Penalty for taking with trap, snare, or net any kind of deer or game birds.

Proviso.

53. SEC. 3. That no person shall kill, shoot, catch or hunt, either on his own property or on the property of another, any doe, buck, fawn or any sort of deer, or partridge, quail, pheasant or grouse of any kind whatsoever, or snipe commonly called English snipe, rail or reed bird, speckled brook trout, or speckled river trout or salmon, black bass, or any fish, except during such seasons and at such times and under such conditions as are provided for by the game laws of this state.

Hunting and fishing prohibited except during seasons provided by game laws.

54. SEC. 4. That the thirtieth section of the act entitled "An act to amend and consolidate the several acts relating to game and game fish," approved March twenty-seventh, eighteen hundred and seventy-four, and all laws and parts of laws inconsistent with this law, be and the same are hereby repealed.

Repealer.

An act for the protection of fisheries in this state.

Approved March 21, 1874. P. L. 1874, p. 61.

55. SEC. 1. That from and after the passage of this act, it shall not be lawful for any person or persons, with net, seine, trap, fike, gilling net, set net, pot or gun, to take or catch fish in any of the lakes or ponds of this state which may have been stocked by the fish commissioner of this state with fresh water fish; and any person or persons who shall take or catch any fish in any of such lakes or ponds of this state, in manner aforesaid, shall be guilty of a misdemeanor, and upon conviction thereof, before any court having jurisdiction of such offence, shall be imprisoned in the county jail for a term not less than three months, or by fine not less than twenty-five dollars, nor exceeding one hundred dollars, or by both such fine and imprisonment, at the discretion of the court before which such conviction shall be had; provided always, that such penalty shall not apply to the taking or catching of small minnows for bait, with a seine not over fifteen feet long, or to the legitimate fishing with a hook, line and rod; provided further, no person shall use less than a four and half inch mesh in fishing for shad.

No fishing with net, seine, trap, fike, gilling net, set net, pot or gun in any waters stocked by the commissioners.

Penalty.

Proviso.

Proviso.

56. SEC. 2. That it shall not be lawful for any person or persons to take or catch, with hook and line, or with hook, line and rod, any fish whatsoever, from any of the lakes or ponds of this state which have been or which may hereafter be stocked by the fish commissioners of this state, for three years from the time the stock fish or spawn is introduced in such lakes or ponds, and any person or persons who shall violate the provisions

Fishing with hook and line prohibited for three years in lakes and ponds stocked by commissioners.

- of this section, shall, upon conviction, be punished as provided in the preceding section.
- Act to apply to waters stocked by individuals. 57. SEC. 3. That any lake or pond of this state, which, before the passage of this act may have been stocked with fresh water fish, or which may hereafter be stocked with fresh water fish by any individual or individuals, as a private enterprise, shall come within the provisions of this act, and no fish shall be taken from any such lake or pond for three years from the time such lake or pond shall have been stocked, under the penalty as in the first section of this act provided.
- When brook trout not to be caught. 58. SEC. 4. That hereafter it shall not be lawful for any person or persons to take or catch any brook trout in any of the streams of this state, before the first day of April or after the fifteenth day of August of each year.
- When black bass and perch not to be caught. 59. SEC. 5. That it shall not be lawful for any person or persons to take or catch from any of the lakes or ponds of this state, any black bass or perch, between the first day of March and the first day of June in each year, and whoever shall be convicted of violating the provisions of this section, or of the preceding section, shall be punished as in the first section of this act provided.
- Unlawful to take fish from waters stocked by individuals. 60. SEC. 6. That hereafter it shall not be lawful for any person or persons, in any manner, to catch, take or carry away any trout or other fish from any stream, pond or reservoir, belonging to any person, persons or corporation, except the owner thereof, which stream, pond or reservoir may have been stocked with fish by hatching the eggs or spawn, or otherwise; and any person so offending shall, upon conviction, be punished as in the first section of this act provided, and in addition thereto the person or persons so offending shall be liable to the owner or owners of such stream, pond or reservoir, for the full value of all fish so taken or carried away, to be recovered in an action of debt before any court having jurisdiction thereof.
- Penalty. 61. SEC. 7. That it shall not be lawful for any person or persons to place in any of the ponds, lakes, rivers or streams of this state, or in any of the waters belonging to this state, any lime, gas-tar, coculus indicus (otherwise known as fish-berries), or any other deleterious substance, or take or catch fish with any deleterious substance or medicated bait, nor shall any person or persons make use of giant or electric powder, or any explosive substance whatever, for the purpose of taking fish; and any person or persons offending against the provisions of this section of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for a period not less than six months or more than two years, or by a fine not less than two hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment, at the discretion of the court before which such conviction shall be had. (See Sec. 37).
- No deleterious substances to be placed in streams for the purpose of catching fish. 62. SEC. 8. That of all penalties recovered under this act, one-half shall go to the informer, and the other half shall be paid to the clerk of the county in which the conviction shall be had, to be paid by him upon demand, to the commissioner of fisheries in charge of the district in which such county may be located, which commissioner shall account for the same to the comptroller of the state.
- How penalties applied. 63. SEC. 9. That it shall be lawful at any and all times, for any person or persons to legitimately take, or catch with hook and line, or with hook, line and rod, any pike, or pickerel, or bass, in or from the bodies of water known as lake Hopatcong, and Stanhope reservoir, situated in the counties of Sussex and Morris, in this state, and the bodies of water known as Cranberry reservoir, Swartswood pond, Decker's pond, and Culver's lake, situated in the county of Sussex, in this state, and none of the penalties contained in this act, shall apply to such legitimate fishing as is provided for in this section.
- Fish may be caught with hook and line, etc., in certain waters.

An act for the preservation of fish.

P. L. 1876, p. 127.

Approved April 13, 1876.

Fishing with nets or other contri- 64. SEC. 1. That hereafter it shall not be lawful for any person or persons, at any time whatever, either by day or night, to put, place or haul

any gill, drift, fike or other net or nets, or any eel pot or pots, basket or baskets, or other contrivances whatever, for the taking or catching of fish, in any of the waters of the state, above tide water, or to keep any gill, drift, fike, or other net or nets, or any eel pot or pots, basket or baskets, or other contrivance whatever, for the taking or catching of fish in any of said waters mentioned; and any person or persons who shall take or catch any fish in manner aforesaid, shall, upon conviction thereof, before any justice of the peace of the county in which said offence is committed, be punished by imprisonment in the common jail of the county for the term of ten days, or by a fine of twenty dollars, for each and every offence, one-half of said fine to be paid into the treasury of the state, and the balance to be paid to the person or persons making complaint, and prosecuting such offender or offenders; and when any fine is imposed by virtue of this act, the offender shall stand committed until fine and costs are paid; *provided*, that said penalty shall not apply to the legitimate taking or catching of fish with hook and line, or with hook, line and rod, nor to the catching of fish with drift or drag nets by any person or persons in waters running through, along or being upon his, her or their own lands, if none of the fish so caught are sold or exposed for sale; and each and every person selling or exposing for sale fish caught by any contrivance prohibited by this act shall be liable therefor to the penalties above prescribed for illegal fishing; *and provided further*, that the privileges herein granted shall not be extended to any person or persons other than the owner or owners of the lands through or along which any stream may run where such fishing with nets may or shall be carried on; *and provided further*, that this act shall not be held to apply to the Delaware river, and private ponds the property of private owners, which are not runways for migratory fishes, and the owners of such ponds shall not be subject to the penalties herein prescribed for fishing in such ponds with such appliances as they may see fit to use.

vances whatever for taking or catching fish above tide water prohibited.

Penalty.

Proviso.

Proviso.

Proviso.

65. SEC. 2. That one person shall be appointed in each county in the state, to be fish wardens, the jurisdiction of each of said wardens to extend through all or any of said counties, and it shall be the duty of said wardens, on view or information, to enforce the fishing laws within all or any of said counties, by arresting and prosecuting the offender or offenders; said officers shall be entitled to their pay as witnesses in such cases, although they be complainants, and such officers shall have a right to remove and destroy any fike, net, eel pot, fish basket, or brush net, illegally placed in the aforementioned waters; the said officers may, in the discharge of their duties, call in the aid of any person or persons when necessary, and such person or persons shall not be liable to prosecution for rendering such aid; any person neglecting or refusing to aid when thus called upon, shall forfeit ten dollars, to be recovered by action of debt, before any justice of the peace of the county; the said special officers thus appointed, shall hold office for three years, unless sooner removed, or until their successors are appointed and qualified, and shall be duly sworn before any justice of the peace, or a judge of the common pleas, to the performance of their duties; they shall make an annual report to the commissioners of fisheries, on or before the first day of November in each year, and shall receive three dollars for each day they are occupied in their special duties, and that said per diem compensation shall be paid by the treasurer of the state, upon an authenticated statement of the commissioners of fisheries; *provided*, that in no case shall any special officer receive more than fifty dollars for his services in any one year.

Appointment of fish wardens.

Powers and duties of the fish wardens.

May call in aid.

Penalty for refusing aid.

Term of office of fish wardens.

Shall make annual report. Compensation.

Proviso.

66. SEC. 3. That any warden who shall wilfully neglect the performance of the duties imposed upon him by this act, shall forfeit the sum of fifty dollars, to be recovered by any person who shall sue for the same, in an action of debt, before any justice of the peace of the county in which said warden resides.

Penalty for neglect of duty.

67. SEC. 4. That the governor shall appoint the fish wardens required by this act, and the said fish wardens so appointed shall be subject to the orders, rules and regulations adopted by the fish commissioners of this state.

Governor to appoint.

68. SEC. 5. That the act entitled "An act for the preservation of fish in

Repealer.

certain waters within the state of New Jersey," approved April eighth, eighteen hundred and seventy-five, and all acts or parts of acts inconsistent with this act, be and the same are hereby repealed.

An act for the preservation of terrapin.

P. L. 1855, p. 132.

Approved March 2, 1855.

When unlawful to take terrapin.

69. SEC. 1. It shall not be lawful for any person, except upon his own premises, to take from the salt or fresh waters of this state, or from the land adjacent to the same, any of the species of tortoise commonly called terrapin, between the first day of April and the first day of October.

Penalty.

70. SEC. 2. Every person offending against the foregoing section of this act shall forfeit and pay, for each offence, the sum of ten dollars, to be sued for and recovered, in an action of debt, by any person who will sue for the same with costs.

Action by summons or warrant.

71. SEC. 3. It shall be lawful to proceed, in any action under this act, by summons or warrant, at the option of the plaintiff.
(See Title, FISHERIES).

Gaming.

1. All wagers unlawful.
2. Money if paid, may be recovered back.
3. Promises, etc., on account of any money wagered, void.
4. Property transferred for gaming debts shall go to heirs.

5. Suit for money lost.
6. If the loser does not sue within six months any other person may prosecute.
7. Winner compelled to answer bills in equity.
8. Penalty for opening and drawing a lottery.
9. Sales and conveyance by lottery invalid.

R. S. 572, 589.

P. L. 1871, p. 109.

An act to prevent gaming.

Revision—Approved March 27, 1874.

All wagers unlawful.

P. L. 1871, p. 109, § 1.

Money may be recovered back. Ib. § 2. Amended.

Promises, agreements, etc., on account of any money or property wagered, void.

R. S. 572, § 2.

P. L. 1871, p. 109, § 1.

Property transferred for gaming debts shall go to heirs, &c.

R. S. 572, § 3. Amended.

1. That all wagers, bets or stakes made to depend upon any race or game, or upon any gaming by lot or chance, or upon any lot, chance, casualty, or unknown or contingent event, shall be unlawful.

2. Any person who shall pay, deliver or deposit any money, property or thing in action, upon the event of any wager or bet herein prohibited, or which is or shall be prohibited by any law of this state, may sue for and recover the same of the winner, or person to whom the same shall be paid or delivered, or of the stakeholder, or other person in whose hands the same shall be deposited, or any part thereof, whether the same shall have been delivered or paid over by such depository or stakeholder or not, and whether any such wager be lost or not. (a)

3. That all promises, agreements, notes, bills, bonds, contracts, judgments, mortgages, leases, or other securities or conveyances, which shall be made, given, entered into, or executed by any person, where the whole or any part of the consideration thereof shall be for money, property, or thing in action whatsoever, laid, won or betted in violation of the first section of this act, or for reimbursing or repaying any money knowingly lent or advanced to help or facilitate such violation, shall be utterly void and of none effect.

4. That if any such sale, conveyance, lease, or mortgage of either real or personal estate, as is made void in the preceding section shall be made, the same shall enure to the use of the heirs or legal representatives of such vendor, bargainor, lessor, or mortgagor, and shall vest the whole estate and interest so attempted to be transferred in such property, to all intents and purposes, in such heirs or legal representatives, in the same manner as though such vendor, bargainor, lessor or mortgagor had died intestate; and all conveyances or other devices to evade this provision shall be utterly void.

(a) See *Moore v. Trippe*, Spen. 263. *Huncke v. Francis*, 3 *Dutch*. 55. *Sulphin v. Crozer*, 1 *Vr.* 257, reversed in 3 *Vr.* 462. *State v. Hall*, 3 *Vr.* 158.