

# ANNUAL REPORT

OF THE

**Board of Fish & Game Commissioners**

OF THE

State of New Jersey

FOR THE

YEAR ENDING OCTOBER 31ST,

1899.



TRENTON, N. J.,

PRINTED FOR THE COMMISSION.

## LETTER OF TRANSMITTAL.

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*To His Excellency Foster M. Voorhees, Governor, and to the  
Members of the Senate and General Assembly of the State of  
New Jersey:*

In accordance with the provisions of law we herewith submit  
the Annual Report of the doings of the Board of Fish and Game  
Commissioners for the year ending October 31st, 1899.

Very respectfully,

HOWARD P. FROTHINGHAM, President,  
WILLIAM A. HALSEY,  
BENJAMIN P. MORRIS,  
J. FRANK BUDD,

*Commissioners.*

List of Fish and Game Wardens Holding Com-  
missions at the Date of this Report.

EMANUEL C. SHANER, . . . . Mays Landing.  
WILLIAM G. WISE, . . . . Burlington City.  
HOWARD L. MATHIS, . . . . New Gretna.  
GEORGE RICARDO, . . . . Hackensack.  
WILLIAM GUTHERIDGE, 427 Walnut St., Camden.  
JAMES HUNT, . . . . 316 Line St., Camden.  
ISAAC T. NICHOLS, . . . . Bridgeton.  
GEORGE PHIFER, . . . . Manumuskin.  
GUS HILTON, . . . . Anglesea,  
A. W. MULLER, . . . . Almonesson.  
JOHN KERR, . . . . Harrison.  
O. P. CHAMBERLIN, Jr., . . . . Flemington.  
ROBERT RICHARDS, . . . . Dover.  
JAMES HUSTON, Jr., . . . . Trenton.  
JAMES M. STRATTON, . . . . North Long Branch.  
CHARLES AYRES, . . . . Metuchen.  
ANSON J. RIDER, . . . . Tuckerton.  
CHARLES A. SHRINER, . . . . Paterson.  
JACOB B. HENDERSHOTT, . . . . Newton.  
WILLIAM NEWELL, . . . . Salem.  
THOMAS J. TORTON, . . . . Pennsgrove.  
GEORGE H. MILLER, . . . . Somerville.  
C. M. HAWKINS, . . . . Roselle.  
EDWARD HILL, . . . . Rocksburgh.  
GEORGE RILEY, Fish and Game Protector, Newark.

# Annual Report

of the Board of Fish and Game Commissioners of the State of New Jersey, 1899.



## Part I.---Stocking.



ALL the work of keeping up the supply of fish and game has been prosecuted during the past year on the lines laid down some four years ago, it not being deemed expedient to attempt to introduce new species when those indigenous to New Jersey or introduced in the past answered all the purposes. The only exception to this rule has been the introduction of the strawberry bass.

There can be no question that New Jersey affords an excellent habitat for all the different kinds of fish and game which may be looked for in as thickly populated a state as this. The Delaware river continues to afford a livelihood for thousands of the dwellers along its banks; the fish along the coast are sought for by throngs of people who crowd our seashore resorts annually; our fresh water streams and our woods have afforded healthful exercise and amusement not only to our own citizens but to many who come here from other states. Aside from the commercial enterprises along the Delaware and the seacoast, fish and game have afforded a considerable source of revenue to the the citizens of New Jersey, to the proprietors of hotels and to the farmers.

The large numbers of applications received from all parts of the state indicate the general interest taken in this part of the work of your commission and it is

pleasant to be able to record the hearty co-operation with which the efforts of your commission were met in nearly all quarters. The applications which were not filled are very few in number and their rejection was caused solely because the applicants were not sufficiently acquainted with the habits of fish and birds to enable them to judge as to what would constitute a suitable habitat for them. As far as possible your commission endeavored to make an equal distribution, ignoring no part of the state. Still statements have been made that some counties received a larger proportionate share than did other counties; wherever there is any ground for such statements it was due to the fact that in some counties the people were more anxious for fish and game than in others and your commission deemed it only proper that those who made applications and who were willing to look after the welfare of the allotment as far as possible should be first attended to even if some sections of country, where none seemed sufficiently interested to make applications, were disregarded in the distribution. The policy pursued in dividing the fish and birds to be distributed was to treat all alike, making generous allowances, however, wherever the country to be covered was peculiarly adapted to the development of the particular species under consideration. This was a matter of comparative ease with trout and with quail, for these may be obtained at any time in the market. Whatever disappointments there were fell to the lot of those who expected fish from the great lakes or who had made applications for bass, pickerel and perch. Removing fish so great a distance as intervenes between New Jersey and Lake Erie is at best a precarious undertaking and losses cannot be wholly guarded against. When the fish arrive in New Jersey they are frequently not in a sufficiently strong condition to stand further removal and for this reason they are frequently placed in the nearest suitable water on the principle that it is better to have a

plentiful supply in one place than to have none at all anywhere; unfortunately when these fish are released it is next to impossible to again take them by the use of a net and for this reason some waters will have to wait until further shipments are made or until the fish brought to New Jersey have increased in numbers to such an extent as to make their netting and further distribution advisable. The latter stage has not as yet been reached; change of habitat frequently works injuriously to fish and it sometimes takes a few years before the fish become thoroughly accustomed to their new surroundings. There is no market where black bass, pickerel and perch can be secured and when these are wanted New Jersey is restricted for a source of supply almost altogether to its own streams and rivers. It is but natural that residents along our waters should object to their depletion, no matter in how small a degree, by the use of a net, even if the fish to be removed are intended for waters where they are badly needed. In order to avoid any such objections your commission in securing these fish has had recourse to waters where no persons had any interest in the fish or where their removal would be a positive advantage. Among the latter waters are the reservoirs of the East Jersey Water Company in the counties of Passaic and Sussex; in order to preserve the water in these reservoirs suitable for domestic purposes the owners have interdicted fishing, the result being an increase in the number of fish until there were more than were desirable. Recourse has also been had to the canals of the state, waters into which the fish found their ways, frequently to be destroyed by the lowering of the water. Unfortunately this kind of work could not be pursued as diligently as might have been desired, the difficulty being lack of funds.

Opinions will undoubtedly differ as to the practical results attending the work of stocking. There can, however, be no question that the number of quail has

materially increased, for results are easily observable when the fields are stocked with these birds. The quail distributed by your commission all came from the West and all reports agree that the birds not only multiplied but that they showed no disposition whatever to migrate, differing from the southern birds in that respect. There may be fewer native quail in some parts of the state but the fact is indisputable that the total number of quail has been increased by the exact number of the western birds and their progeny, for no instance has as yet been brought to the attention of your commission where these birds did not do well.

As to the introduction of the ring-necked pheasants it is rather early to speak definitely, for these birds have now been protected only since last spring; before that time they were ruthlessly shot off by pothunters who kept within the letter of the law which permitted the killing of these birds. The experiment is one which has been hardly given a fair trial, for the birds were released when the law afforded them no protection and it was a comparatively easy matter to kill off the semi-domesticated fowl; there is every reason to believe that if the birds had been left alone for a few years after their first introduction their progeny would have taken the place partly at least of our ruffed grouse, a bird the diminution in the numbers of which is noted with pain by every lover of our wild fauna.

Nor has the time yet arrived when it may be said definitely that the introduction into our waters of the pike perch, the white bass and the channel catfish has been either a success or a failure. It is true that these fish have been taken in the waters in which they were placed a year or two ago but if the first lot planted had spawned the young would hardly be either large or numerous enough to have made much of a showing as yet. Pike perch two and three inches long have been taken in Greenwood Lake and, although this is a promising sign, it cannot be taken for granted as yet

that it has been demonstrated that the water of that lake is suitable for their propagation; the young may not attain maturity or they may be stunted in their growth. Channel catfish, weighing from two to seven pounds, have been taken in Greenwood Lake and in the Delaware river but it is evident that these are of the lot brought hither from Lake Erie. No evidences have been found so far that these fish have propagated. The least encouraging of all the experiments was the introduction of the white bass, for very little has been seen of this fish since it was brought here. Although to the pessimist the above may be regarded as indications of failure, persons at all cognizant with results of stocking will find a great deal of encouragement in them and there is certainly good reason to believe that success will attend at least some of the experiments. But the fact is patent that the experiment in none of the various species has been carried far enough to give a guarantee of success, taking for granted that the fish found their new habitat in every respect suitable. Compared to the size of the bodies of waters the fish were exceedingly few in number; in order to warrant any belief in success the stocking should be kept up for several years in succession. Your commission was exceedingly anxious to do this and attempted to save sufficient of the funds accruing to the commission from sources other than state appropriation in order to continue the work. Unfortunately litigations in which the commission was involved by appeals to higher courts, a reduction of the income from menhaden licenses and expenses which could not be avoided reduced the surplus in the treasury to so small an amount that your commission saw itself compelled to forego its cherished hopes. The last legislature saw fit to cut off the usual appropriation for stocking and so this source of revenue was gone; had the legislature done as its predecessors for the past several decades did the money accruing to the commission during the winter months might have been

used during the late fall in keeping up the supply of fish from the west and perhaps definitely determining whether our fish supply can be augmented by the addition of the most desirable western species.

Your commission has paid considerable attention to the providing of food for the fish by the distribution of what is known as baitfish, for it cannot be gainsaid that the output of table fish from a water depends almost altogether on the food supply for the fish. The number of large fish in many lakes and streams could be materially increased by a generous supply of food. In addition to transplanting baitfish from prolific waters to others your commission attempted the introduction two years ago of the large and small smelts of the Maine waters. It is gratifying to notice that these fish have been taken in some of the waters in which they were placed and that there is no doubt that they have spawned. The smelt is considered in eastern waters as the best food fish and if its propagation in the waters of New Jersey is not altogether ephemeral gratifying results from their introduction may be looked for.

Reference has been made above to the introduction here of the strawberry bass. Your commission had no intention in this early stage of fish introduction to make any attempt towards introducing the smaller and less valuable varieties of fish from the west but the cutting off of the usual appropriation made some change in the programme desirable. The strawberry bass is the most attractive of the sunfish family; it is easily propagated and the opportunity was accordingly embraced of bringing some of them on, there being every reason to believe that they would be a welcome addition to our fish supply. The strawberry bass is known throughout the West by a number of different names. It is frequently called the calico bass, and this name is more appropriate than any other, when the appearance of the fish is considered. It is also known in the West as grass

bass, bitterhead, lamplighter and bank lick bass; in Lake Michigan it is invariably called the barfish, and in the Southern part of the West it is referred to as goggle-eye or goggle-eyed perch. The strawberry bass is of a bright gold and black, with numerous varying shades, being one of the most beautiful of fish. It is fond of grassy bottoms and quiet and clear water, and objects to mud. Although specimens weighing two pounds have been found, it is seldom that the fish attains a weight of more than one pound. It is very gamy on the hook and rises readily to the fly. It is frequently confounded with the crappie, a fish it very much resembles in general appearance and structure, the principal differences being that in the crappie the white predominates where the gold is found in the strawberry, and that the latter is not fond of muddy bottoms, as is the crappie. Professor Kirtland, in George Brown Goode's "Fisheries and Fishery Industries of the United States," speaks as follows concerning the strawberry bass:

"The grass bass has not hitherto been deemed worthy of consideration by fish-culturists; yet, from a long and intimate acquaintance with its merits, I hesitate not to pronounce it the fish for the million. It is a native of our Western rivers and lakes, where it usually resorts to deep and sluggish waters; yet in several instances, where it has found its way into cold and rapid streams, and even small sized brooks, it has adapted itself to the change, and in two or three years stocked to overflowing these new locations. As a pan fish, for the table, it is surpassed by few other fresh water species. For endurance and rapidity of increase it is unequalled. The grass bass is perfectly adapted to stocking ponds. It will thrive without care in very small ponds of sufficient depth. It will in no way interfere with the cultivation of any number of species, large or small, in the same waters. It will live harmoniously with all others, and while its structure and disposition restrain it from attacking any other but very small fry, its formidable armature of spinous rays in the dorsal and abdominal fins will guard it against the attack of even the voracious pike."

Quail were distributed during the year as follows:—

William C. Parry, Mt. Holly, Jobstown and Medford, Burlington county, 24; John P. Hutchinson, Bordentown, Burlington

county, 24; Frederic J. Hall, N. M. Chitterling, R. T. Cadmus, Percy H. Johnson and W. F. Harrison, Bloomfield, Essex county, 12 each; Gilbert Hyer, Charles Estelle and F. E. Hyer, Lakewood, Ocean county, 12 each; Thomas C. Elvins, Hammonton, Atlantic county, 12; J. R. Stiles and J. C. Dubell, Mt. Holly, Burlington county, 12 each; Charles S. Albertson, Magnolia, Camden county, 24; James L. DeWitt, Deckertown, Sussex county, 12; John B. Ratcliffe, H. B. Kemble, E. L. Langley and George Brannin, Millville, Cumberland county, 12 each; Samuel P. Fithian, Bridgeton, Cumberland county, 12; R. Chaplin, Mt. Arlington, Morris county, 12; John B. Yard, Newtown, Mercer county, 12; E. K. Cole, Windsor, Mercer county, 12; F. T. Johnson, Henry Johnson, C. H. Shinn, D. F. Maynard, R. S. Schindell, C. A. Cook and J. Homan, Lakewood, Ocean county, 12 each; Wood McKee, Paterson, Passaic county, 24; Horace Stokes, Hackettstown, Warren county, 12; Richard Miller, Woodstown, Salem county, 60; Richard Miller, Alloway, Salem county, 36; John E. Darnell, Mt. Laurel, Burlington county, 12; Josiah D. Pancoast, Moorestown, Burlington county, 12; Albert Runyon, Plainfield, for the Game and Fish Protective Association of Union, Somerset and Middlesex counties, 24; Richard P. Potter, Madison, Morris county, 12; Stephen F. Bryant, Dover, Morris county, 12; W. W. Woodward, Jr., Newton, Sussex county, 12; George Shaw, Succasunna, Morris county, 12; Mahlon Pitney, Morristown, Morris county, 24; Thomas Chamberlain, Milton, Morris county, 24; Douglas Slocum, Eatontown, Monmouth county, 24; Cornelius Post, Newfoundland, Passaic county, 12; Charles Monks, Newfoundland, Passaic county, 12; Louis Davenport, Newfoundland, Passaic county, 12; Joseph S. Mount, Newtown, Mercer county, 12; Franklin Burroughs, Ewing Station, Mercer county, 12; Harvey S. Hutchinson, Trenton, Mercer county, 12; Clark Flock, Lawrence Station, Mercer county, 12; Fred Applegate, Hightstown, Mercer county, 12; John W. Tindall, Windsor, Mercer county, 12; John W. Opie and David H. Agan, Three Bridges, Hunterdon county, 12 each; William B. Willis, Mt. Holly, Burlington county, 12; Daniel Ewan, Smithville, Burlington county, 12; Joseph Huff, Mt. Holly, Burlington county, 24; A. C. Hildreth, Rio Grande, Cape May county, 12; Horace Richardson, Cape May Court House, Cape May county, 12; Harvey Shaw, Cape May City, Cape May county, 12; Charles Wright, Columbus, Burlington county, 24; George Abbott, Jr., Moorestown, Burlington county, 24; William A. Dilks, Clayton, Gloucester county, 12; Harry D. Simmerman, Williamstown, Gloucester county, 12; Langdon W. Harris, Newfield, Gloucester county, 12; Robert Wilson, Franklinville, Gloucester county, 12;

S. F. Stanger, Harrisonville, Gloucester county, 12; Frank Anna-down, Glassboro, Gloucester county, 12; Job Scott, Mantua, Gloucester county, 12; Langdon W. Harris, Newfield, Gloucester county, 12; S. C. Ireland, Williamstown, Gloucester county, 12; John M. Henderson, Woodbury, Gloucester county, 12; Thomas Huff, Woodbury, Gloucester county, 12; George W. Cattell, Woodbury, Gloucester county, 12; Adon W. Muller, Almonesson, Gloucester county, 12; T. C. Shreve, Pemberton, Burlington county, 12; Frank Swain, Swainton, Cape May county, 12; Calvin Hill, Ringoes, Hunterdon county, 12; O. I. Blackwell, Ringoes, Hunterdon county, 24; James Van Marten, Ringoes, Hunterdon county, 12; George Shaw, Succasunna, Morris county, 12; R. E. Dixon, Ironia, Morris county, 12; A. G. Barnes, Ironia, Morris county, 12; C. M. Phillips, Morristown, Morris county, 12; A. C. Phillips, Ralston, Morris county, 12; H. C. Pitney, Mendham, Morris county, 12; William A. Dunn, Morristown, Morris county, 12; H. B. Kemble, Millville, Cumberland county, 12; Jerome Williamson, Morristown, Morris county, 12; E. P. Merritt, Lake Denmark, Morris county, 12; E. H. Robbins, Haddonfield, for the Haddonfield Fish and Game Protective Association, Camden county, 24; N. Anderson, Port Murray, Warren county, 12; A. R. Hope, Flemington, Hunterdon county, 12; W. H. Ingram, Hopatcong, Sussex county, 12; Charles A. Spaulding, Newton, Monmouth county, 12; W. H. Brevoort, Pittstown, Hunterdon county, 24; J. D. Bartine, Somerville, Somerset county, 12; B. P. Will, Tuckerton, Ocean county, 24; Hugh McGovern, Williamstown Junction, Camden county, 12; David H. Grimshaw, Charles L. Augur and Jacob Walder, Newfoundland, Passaic county, 12 each; C. B. Wait, Metuchen, Middlesex county, 12; Monroe Wyckoff, Howell, Monmouth county, 12; F. C. Robbins, Maple Shade, Camden county, 12; Charles H. Peuker, Millington, Morris county, 12; W. S. Creveling, West Portal, Hunterdon county, 12; J. C. Parsons, West Creek, Ocean county, 12; Edward Richter, Hackettstown, Warren county, 12; George B. Vliet, Hackettstown, Warren county, 12; George Hoffman, Andover, Sussex county, 12; E. T. Gill, Haddonfield, Camden county, 24; H. E. Griggs, Newton, Sussex county, 12; W. T. Woerner, New Brunswick, Middlesex county, 12; W. H. Wilson, Allamuchy, Warren county, 12; W. L. Shropshire, Port Norris, Cumberland county, 12; Joshua Forsyth, Pemberton, Burlington county, 12; Jacob Price, Glendora, Camden county, 12; J. R. Radcliffe, Millville, Cumberland county, 12; James G. West, Vincentown, Burlington county, 12; John R. Foster, Three Bridges, Hunterdon county, 24; Joel G. Langley, Newfield, Salem county, 12; William T. Stecker, Riverside, Burlington county, 12; C. G. Kingsley, Columbus,

Burlington county, 12; R. E. Foster, Jr., Newton, Sussex county, 12; John A. Shinn, West Creek, Ocean county, 12; William Newell, Salem county, 12; M. G. Fowser, Quinton, Salem county, 12; C. I. Wooster, Berlin, Camden county, 12; George E. Snook, Monmouth Junction, Middlesex county, 12; E. T. Benner, East Moorestown, Burlington county, 12; Claude Reeves, Millville, Cumberland county, 12; C. G. Steelman, Millville, Cumberland county, 12; A. J. Stark, Washington, Warren county, 12; William Chambers, S. M. Chafey and L. E. Foulks, New Egypt, Burlington county, 12 each; W. E. Rasener, Belvidere, Warren county, 12; J. M. Garwood, Medford, Burlington county, 12; C. V. S. Rea, Hackettstown, Warren county, 12; A. M. Hewlings, Pemberton, Burlington county, 12; George W. Thompson, Juliustown, Burlington county, 12; Daniel Bailey, Glenwood, Sussex county, 12; W. H. Anderson, Califon, Hunterdon county, 12; Charles E. Black, Columbus, Burlington county, 12; John N. Calvin, Lafayette, Sussex county, 12; Elmer King, Stanhope, Morris county, 12; A. B. Gibb, Bernardsville, Somerset county, 12; George F. Kohlhepp, Milltown, Warren county, 12; Levi Kittle, Allamuchy, Warren county, 12; C. B. McCracken, Hackettstown, Warren county, 12; John A. Wildrick, Blairstown, Warren county, 12; George B. Swain, Blairstown, Warren county, 12; P. L. Smith, Waterloo, Sussex county, 12; F. A. Ballantine, Lyons, Somerset county, 12; A. D. Winfield, M. B. Roome and Charles A. Bergen, Midvale, Passaic county, 12 each; H. S. Kinmonth, Asbury Park, Monmouth county, 12; W. E. Young, Chester, Morris county, 12; J. B. Righter, Denville, for the Denville Fish and Game Protective Association, Morris county, 24; C. F. Hopkins Boonton, Morris county, 12; M. L. Hoagland, for the White Meadow Club, of Rockaway, Morris county, 24; John G. Taylor, Dover, Morris county, 12; B. P. Morris, Long Branch, for the Bonnet Club of Barnegat Bay, 36; E. Reynolds, Milltown, Middlesex county, 12; H. J. Nicklin, Trenton, Mercer county, 12; A. E. Stockton, for the Haddonfield Fish and Game Protective Association, Haddonfield, Camden county, 24; L. H. Ashley, May's Landing, Atlantic county, 12; William Graff, Haddonfield, Camden county, 12; John Dubell, Jr., Wrightstown, Burlington county, 12; James D. Torton, Pennsgrove, Salem county, 12; A. T. Leonard, Sterling, Morris county, 12; S. S. Ledden, Glassboro, Gloucester county, 12; Charles G. Conover, South Woodstown, Salem county, 12; W. W. Austin, Woodstown, Salem county, 12; Charles Heil, Woodstown, Salem county, 12; Charles P. Nixon, Fenwick, Salem county, 12; W. S. Clawson, Fenwick, Salem county, 12; Joseph R. Dennis, Stillwater, Sussex county, 24; E. S. Burns, Pochuck, Sussex county, 24.

The large demand for quail from all parts of the state and the excellent birds your commission had the good fortune of securing caused an abandonment of the project of further attempting to introduce the ring-necked pheasants. A number of these birds were, however, offered to your commission at a figure considerably lower than the regular market price and these were secured and distributed as follows:—

John A. Wildrick, Blairstown, Warren county, 8; George B. Swain, Blairstown, Warren county, 8; Edwin E. Taber, Long Branch, Monmouth county, 8; Gilbert Hyer, Lakewood, Ocean county, 12.

The distribution of brook trout was in progress at the time of making the last annual report and nearly all had been distributed. The following were distributed after the first of November, 1898:—

L. D. Budd, for the Munson brook, Sussex county, 500.

B. E. Knox, for the west branch of the Paulinskill, Sussex county, 500.

D. H. Wortendyke, for the Springbrook, Bergen county, 250.

W. E. Young, for the Cramer brook, Morris county, 1,000.

H. S. Kinmonth, for the Jumping brook, Monmouth county, 1,000.

H. S. Kinmonth, for the L. M. brook, Monmouth county, 1,000.

Conelius DeBaun, for the Westwood Springs, Bergen county, 500.

A. C. Holdrum, from the Westwood brook, Bergen county 500.

M. T. Connolly, for the Saddle river, Bergen county, 500.

Alexander Forbes, for the Vernon brook, Sussex county, 750.

B. F. Snyder, for the Pacack brook, Sussex county, 1,250.

John C. Roe, Jr., for Buttermilk falls and other brooks in Passaic county, 2,250.

A contract has been entered into for trout for the present season's distribution, the number and price being the same as last year, but the prevailing warm weather has prevented the work of distribution from being begun until after the time fixed by law for making this report. The payment for the fish and the cost of transportation will exhaust the last appropriation made for stocking purposes.

Through the efforts of Attorney-General John W. Griggs and former Fish and Game Protector Charles A. Shriner a carload of large-mouthed black bass, eight thousand four hundred in number, from the United States Fish Commission, was placed at the disposal of your commission. The fish were delivered during very warm weather, rendering a general distribution throughout the state impracticable. Twenty-four hundred were placed in ponds and streams of Monmouth county and the remaining six thousand equally divided between Greenwood Lake and Lake Hopatcong.

In addition to the above, eighty black bass and ten yellow perch were placed in Green pond, in Warren county, having been taken from the Morris canal; sixteen hundred and fifty yellow perch were taken from tidewater and placed in Lake Almonesson in Gloucester county.

Two carloads of fish were brought on from Lake Erie and distributed throughout the state as follows:—

Bathe's pond, Gloucester county, 25 pike perch and 25 white bass.

White Lake, Warren county, 25 pike perch, 25 white bass and 10 channel catfish.

Morris Lake, Sussex county, 25 white bass and 25 pike perch.

Milton lake, Union county, 25 pike perch and 25 white bass.

Pompton lake, Passaic county, 25 pike perch and 25 white bass.

Echo lake, Passaic county, 25 pike perch and 25 white bass and 20 channel catfish.

Cedar pond, Passaic county, 25 pike perch, 25 white bass and 20 channel catfish.

Greenwood lake, Passaic county, 200 pike perch, 200 white bass and 50 channel catfish.

Hutchinson's pond, Mercer county, 25 pike perch and 25 white bass.

Whitehead's pond, Mercer county, 25 pike perch and 25 white bass.

Brown's Mills pond, Burlington county, 75 pike perch and 75 white bass.

Haddonfield pond, Camden county, 40 pike perch and 40 white bass.

Blackwood pond, Camden county, 40 white bass and 40 pike perch.

Lawrence spring pond, Camden county, 40 pike perch and 40 white bass.

Clementon lake, Camden county, 40 white bass and 40 pike perch.

Elkington's pond, Salem county, 25 pike perch and 25 white bass.

Hitchener's pond, Salem county, 25 white bass and 25 pike perch.

Union lake, Cumberland county, 50 pike perch and 60 white bass.

Cumberland pond, Cumberland county, 50 pike perch and 65 white bass.

Almonesson pond, Gloucester county, 20 pike perch and 20 white bass.

Hendrickson's pond, Gloucester county, 20 pike perch and 20 white bass.

Warrington pond, Gloucester county, 20 pike perch and 20 white bass.

Tumbling dam pond, Cumberland county, 80 pike perch and 80 white bass.

Evans pond, Camden county, 80 pike perch and 30 strawberry bass.

Kirkwood pond, Camden county, 80 pike perch and 30 strawberry bass.

Cooke's lake, Morris county, 70 pike perch and 30 strawberry bass.

Muir lake, Morris county, 10 white bass, 70 pike perch, 20 strawberry bass and 10 channel catfish.

Bowden lake, Morris county, 10 white bass, 70 pike perch and 20 strawberry bass.

Green pond, Warren county, 10 white bass, 40 pike perch, 8 strawberry bass and 10 channel catfish.

South branch of the Rancocas, Burlington county, 10 white bass, 24 pike perch and 12 strawberry bass.

North branch of Timber creek, Camden county, 2 white bass, 30 pike perch and 15 strawberry bass.

Laurel lake, Camden county, 20 pike perch and 12 strawberry bass.

Hollywood lake, Monmouth county, 8 white bass, 12 pike perch and 7 strawberry bass.

Patterson's pond, Monmouth county, 3 white bass, 13 pike perch and 5 strawberry bass.

Pompton lake, Passaic county, 3 white bass, 47 pike perch, 5 strawberry bass and 10 channel catfish.

Little pond, Sussex county, 35 pike perch and 15 strawberry bass.

Lake Pochunk, Sussex county, 2 white bass, 14 pike perch and 15 strawberry bass.

Windsor Mill pond, Mercer county, 20 white bass, 80 pike perch and 15 strawberry bass.

Davis' pond, Hunterdon county, 4 white bass, 29 pike perch and 14 strawberry bass.

This closes the chapter of fish and game distribution for the fiscal year which has just ended. Your commission has on file a large number of applications from citizens of this state for stocking suitable waters with various kinds of fish but all these applications will of necessity have to lie over on account of lack of funds. An appropriation of five thousand dollars would have enabled your commission to do the same or better work during the present fiscal year and it is difficult to see where such a sum could have been expended with more pleasure and profit to the citizens of this state. Your commission has been assured of hearty support on the part of a number of senators and assemblymen towards the passing of a supplemental appropriation bill in order that the work of stocking may not be interrupted. Your commission is willing and anxious to make the best use possible in its judgment of any further sum of money, but if this is not forthcoming all applications for fish and game will have to lie over indefinitely.

But it is not only for the purpose of keeping up the supply of fresh water fish and the distribution of birds that your commission suggests the making of the appropriation; there are reasons far weightier, for at best it is sport which constitutes the principal element in the taking of fish and game such as have been referred to in this part of the report. Along the banks of the lower Delaware below the city of Trenton there lives a race of hardy fishermen whose sole subsistence is in the fish which ascend the river for the purpose of spawning. The shad industry is one of the most important industries in the state and on it depend for a living hundred

of good citizens. Second to this is the sturgeon industry. The rise in the price of caviar from \$40 per keg to \$110 per keg within two years and a more than proportionate decrease in the number of fish taken, so that sturgeon fishermen last year made less money at the high price than they did at the lower figure two years ago, has spurred pisciculturists on to renewed exertions towards solving the problem of the artificial propagation of this fish. Considerable advances have been made in this direction, so much so that the Fish Commission of Pennsylvania has concluded next year to try the experiment of artificial propagation. The Pennsylvania commission in this project has been promised the support of the sturgeon fishermen and it is to be hoped that practical results may follow. Now nearly all the sturgeon fishermen are residents of New Jersey for the reason that the channel of the river favors the New Jersey side. With a sister state willing to devote its money and the time of its officials towards a project which promises by far the greater benefit to our own state it would seem almost niggardly policy if New Jersey did not join in the enterprise. There is little doubt that the sturgeon industry may be made even more lucrative than is the shad fishing industry; Pennsylvania and the United States have joined in their efforts crowned with such glorious success, in making the shad fisheries what they are at the present day; New Jersey with all its wealth of resources and its thousands of fishermen living practically on the bounty of a sister state and the federal government, has sat supinely by and done very little. Your commission has always done its utmost towards the protection of the shad industry and has always seconded the efforts of Pennsylvania, but the legislature has at no time made an appropriation sufficient for the establishing or even the maintenance of a hatchery. Nor do we deem such a project necessary at present as far as the shad are concerned, for even without the care taken by Pennsylva-

nia the Delaware would be prolific of shad on account of the efforts of the federal government. It is, however, hardly proper that New Jersey should depend upon Pennsylvania altogether to do all the work of ploughing and planting and New Jersey take the lion's share of the harvest. If sturgeon can be successfully propagated by artificial means a rich return is guaranteed to citizens of New Jersey; in the light of recent discoveries the experiment is well worth trying.

## Part II.---The Delaware River.

IT would be almost impossible to imagine laws more contradictory and more difficult to be understood than the enactments of this state governing the taking of fish in the Delaware river and still these very laws are supposed to be observed by a class of men unfamiliar with legal matters. Of the laws in force at present governing the Delaware river the first was passed in 1808 and since that time legislatures have been tinkering these laws nearly every year, frequently wholly regardless of whether the new laws were contradictory of previous enactments or not. Different sections provide different penalties for the same offence. By a treaty between Pennsylvania and New Jersey the Delaware is established as an open highway between the two states and it is very doubtful whether any legislation affecting the stream is valid until concurred in by the legislatures of the two states, excepting such legislation as pertains to property rights in shore fisheries. Nevertheless there are laws on the statute books of New Jersey which have never been passed by the Pennsylvania legislature. In one case Pennsylvania amended its law and the same amendment was passed by the New Jersey legislature without the precaution having been taken of changing the title, the title to the New Jersey law differing wholly from the title of the law sought to be amended. Still these are the laws which the fishermen along the Delaware are supposed to observe in the prosecution of their means of gaining a livelihood.

One difficulty which has always presented itself is that the Delaware in its lower part is wholly a commercial river, inhabited in season by anadromous fishes which are taken for the market. The upper part of the river is fresh water and the claims of the net-fishermen

as against those of the hook-fishermen have frequently conflicted. Your commission has devoted considerable time to an investigation of this matter and some time ago a number of meetings were held in conjunction with the Pennsylvania commission and shad and sturgeon fishermen from along the banks of the Delaware; a measure was then agreed upon which was satisfactory to all concerned. This measure was in the direction of letting down the bars, extending more liberties to the fishermen but still consonant with the prevailing principles of protection to two of the most important industries in the state. Subsequent observation tends to show the utility of such a measure and it is respectfully suggested that it be adopted by the next legislature. The measure cannot go into effect until approved of by Pennsylvania but there is little doubt of such approval, for the fishermen on the Pennsylvania side of the river are as much interested in the matter as are the fishermen in New Jersey. The Pennsylvania legislature does not meet in 1900, but instead of an argument against the passage of the measure by the legislature of 1900 in New Jersey, it is an argument in favor of it; the enactment of such a measure, even if it were to remain inoperative for a year, would serve to call attention to it; its weak points, if any, would be detected and consequently when Pennsylvania is ready to adopt it the wants and demands of all the fishermen would be known and the two measures could be easily made to conform with each other, if indeed any change should be deemed necessary.

One strong reason for the adoption of a measure like the one suggested is that the New Jersey legislature a few years ago removed all protection from the shad fishermen of Delaware bay. The many laws which had been passed from time to time relative to Delaware bay had become onerous in the extreme and when a legislature with one act made all laws applicable to any part of the Delaware river also applicable to the Delaware

bay and its tributaries there was a general disregard of the laws. With the advent of the Fish and Game Commission which was appointed five years ago came the enforcement of the laws and as a natural consequence the repeal of the onerous enactments governing the bay and its tributaries was demanded and the legislature listened to the demand. But instead of selecting for repeal the burdensome measures the legislature simply wiped out all protection, thus bringing about a state of affairs not at all in keeping with the demands of the fishermen. The latter recognize the value of proper protection, for if the fish may be taken at all times and no opportunity afforded them of ascending to their spawning beds the ruin of the shad industry will be accomplished within a very short time.

There is nothing unusual to report in connection with the shad fishing in the lower Delaware; the remarkable falling off in the take of shad above Trenton will be considered later. The United States Fish Commissioner and the state of Pennsylvania have as usual been very kind to the New Jersey fishermen by planting many millions of shad fry in the upper waters of the Delaware. Vigilance more than usual has been required from the wardens along the Delaware and during the open season they were accorded every assistance the necessities of the occasion called for. But complaints of violations of the law are scarce among the shad fishermen, who recognize that the laws were made for the purpose of perpetuating the industry in which they are engaged and that a strict observance of the laws cannot but inure to the benefit of the industry.

Were it not for the decrease in the number of sturgeon taken sturgeon-fishing would to-day be an industry paramount in importance to the shad industry. It is comparatively a few years ago when the sturgeon was considered an almost valueless fish. The decrease in the number of sturgeon in the rivers of Russia, for many years the only source of the world's supply of

caviare, called attention to the presence of sturgeon in the waters of this continent. The increased demand for caviare stimulated the industry and three years ago sturgeon roe sold for between forty and fifty dollars a keg. Two years ago the price had advanced to eighty and last year it had gone up to over a hundred dollars, equalling one dollar a pound. But Russian history repeated itself here and the sturgeon industry was not as profitable last year as it was three years ago, the number of sturgeon taken having decreased. Fishculturists have taken a lively interest in the situation and attempts have been made at the artificial propagation of this fish which has become so valuable within the past few years. Experiments in this direction have progressed until there is now little doubt expressed that artificial propagation may be prosecuted as successfully with sturgeon as it has been with shad. There was a time when the indications were that shad would soon be an extinct species of fish; they had already become a luxury when artificial propagation was resorted to and to-day shad are more numerous and consequently lower in price than they ever were. The Fish Commissioner of the United States has expressed it as his determination to attempt the development of sturgeon eggs taken from the living fish; the Fish Commission of Pennsylvania is about to make a similar experiment and has already made arrangements therefor. Your commission would gladly aid in the project were it not that its hands are tied by lack of appropriation. The money accorded to this commission is divided by the legislature for specific purposes and no funds are available for the new enterprise, one which promises to be of incalculable benefit to many citizens of this state. Your commission would accordingly suggest the appropriation of a sum of money to be used by the commissions of Pennsylvania and New Jersey in a joint effort to preserve a promising industry for the residents along the Delaware.

The unprecedented rise in the price of caviare having called special attention to the sturgeon-fishing industry more than the usual precautions were taken to have enforced the laws protecting these fish. This gave rise to a discussion as to the meaning of an act passed by the legislature in 1890 for "the protection of mam-mose (sic) or young sturgeons." There are in the Delaware river two kinds of sturgeon, the *Acipenser sturio*, or sharp-nosed, and the *Acipenser brevirostris*, or round-nosed. The latter does not attain a length of more than three feet and is almost worthless, the fishermen taking it generally for the purpose of feeding the flesh to swine. This fish and also the young of the sharp-nosed variety have been indiscriminately called "mamoose" and the legislature of 1890 passed a law making it unlawful to take "mamoose, which are young sturgeon, under three feet in length." A strict interpretation of the law indicates that fishermen shall take none of the round-nosed variety, but as this fish has little economic value and as the legislature intended only to protect the young of the sharp-nosed variety, your commission saw no reason why the fishermen should not reap what little benefit could be obtained by the taking of the comparatively worthless fish; the wardens were accordingly instructed to enforce the "mamoose" law only as to the sturgeon which when adult produces caviare, this interpretation of the law being in the estimation of your commission strictly in conformity with the demands of the fishermen and the requirements for the continuation of the sturgeon-fishing industry.

One of the weak points in the law pertaining to the taking of fish in the Delaware is that no provision whatever is to be found in regard to carp. This fish was introduced in the Delaware when it was presumed that it would constitute a valuable addition to our fish supply. That it has not proven such is admitted at the present day but there seemed to be no reason whatever why the fishermen along the Delaware should not be permitted

to reap what little advantage accrued from the presence of this fish in our waters. The difficulty was to frame any regulation by which the carp might be taken by the use of nets without interfering with commercial and other fisheries. The regulation adopted some time ago, after a conference between the Pennsylvania and New Jersey Commissions, that fishermen should be permitted at low tide to take what carp were to be found in stop nets placed along the splatterdocks at high tide, is still in force and seems to answer all the requirements of the case, doing no injury whatever to other fish and still materially assisting the fishermen in their endeavors to gain a livelihood from the fish in the Delaware. It would, however, unquestionably be better if this simple regulation were made a law of the state.

It was suggested a few years ago by some fishermen living along the Delaware that that stream might be made more profitable if smelts could be added to the fish in its waters. The experiment seemed doubtful in promise, but the result, if successful, would be of such great value, and the experiment comparatively inexpensive, that your commission placed a considerable number of young smelts in the headwaters of the Delaware. This was kept up for several years but so far no results have been apparent and the conclusion is probably a fair one that the Delaware is not suitable for these fish. The further planting of smelt fry has accordingly been abandoned.

Another attempt made by your commission to increase the fish supply of the Delaware was by the introduction of the channel catfish of the western lakes, there being every reason to believe that these fish would thrive in the upper reaches of the river and that, like most fresh-water fishes, they would have no objection to salt water. Our fresh water fish as a rule accommodate themselves very readily to changed conditions and many fish which in the interior are strictly land-locked readily become anadromous when given access to salt

water. In order to try the experiment your commission has on several occasions in the past placed channel catfish either in the Delaware or in streams tributary to the main stream, but time enough has hardly elapsed to decide whether the experiment was a success or not. The channel catfish has been taken at various points along the Delaware from Warren county down to Gloucester; but whether the fish bred or not remains a question which time only can answer. The channel catfish is so valuable a fish, generally commanding the highest price next to the whitefish in the great lakes, that it is to be hoped that it will find a suitable habitat in the Delaware.

In September of this year Assemblymen O. I. Blackwell, of Hunterdon county, called the attention of your commission to the greatly reduced quantity of shad taken in the upper waters of the Delaware; fishermen in looking for a cause for this diminution in their revenues concluded that obstructions placed in the Delaware by the Trenton Water Power Company at Trenton were responsible for the changed condition of the shad fishing industry. The matter was referred to Mr. Howard P. Frothingham, the President of your Commission, who at the October meeting submitted the following report:—

*To the Honorable, the Board of Fish and Game Commissioners of the State of New Jersey:—*

At the last meeting of the Board of Fish and Game Commissioners there were referred to me some complaints made by shad fishermen and others that the dam of the Trenton Water Power Company, as constructed during the spring of the present year, had had a ruinous effect upon the shad fishing industry carried on in the Delaware river, notably above the falls at Trenton. In connection with this matter I desire to present the following report:—

The first question which would naturally arise for consideration is as to whether the dam as at present constructed does interfere with the shad fishing industry. An examination of the dam cannot but lead to one conclusion. Up to the early spring of the present year the Trenton Water Power Company maintained a dam

at Scudder's Falls, a point on the Delaware river about five miles about Trenton. This dam, which is about five feet high on the Pennsylvania side of the river and between two and three feet high on the New Jersey side, had in the channel of the river a sluiceway from one hundred and twenty to one hundred and fifty feet in width. The bottom of this sluiceway was of gravel and any obstructions placed in it hitherto by the company were washed out by the winter freshets, leaving a clear space through which shad might ascend to their spawning beds. The company annually in the fall of the year placed large quantities of stone and other material in this sluiceway, the object being to hold back the water during the summer months, when the river is invariably at a low stage. Before the annual migration of the shad to their spawning beds in the upper Delaware the freshets washed away this material, so that there was little or no interference with the progress of shad in the early spring months and nothing to prevent their return to the sea in their natural course. The company, however, tired of this annual expense of providing a temporary dam, last spring proceeded with the erection of a substantial piece of crib work with timber cover, this latter being about one hundred and fifty feet long and an equal number of feet in width. The cribwork is built in a most substantial manner and is in fact the strongest part of the dam. At its lower end at present there is an abrupt descent to the bed of the river of about three feet. The river at its present stage is very little lower than it is during the time when the shad ascend to their spawning beds.

There is perhaps no fish more timid than the shad and experience has shown that these fish will not ascend any of the ordinary fish ladders or fishways. These contrivances were tried in the Connecticut river, where they were constructed in the dams; a short time ago the Connecticut was the most important shad river in the country, the Delaware ranking second. The shad industry in the Connecticut river has been absolutely ruined by the dams erected in the streams and a similar danger now threatens the Delaware. It is impossible for any shad to ascend the dam at Scudder's Falls as at present constructed. The work of constructing the cribwork which effectually closes the sluiceway was done before the shad fishing progressed this year and the returns from fishermen above the dam indicate that the value of the shad taken along the Hunterdon and Warren county shores fell in value from \$30,000 in 1898 to less than \$5,000 in 1899. The year 1899 was an exceptionally good shad year; on account of the bad condition of the water at times and for climatic reasons there was no steady run of shad but the total was greater in the river below the falls than it had been for some years.

There is little doubt that the dam will destroy the fishing in the

upper part of the river, thereby depriving the fishermen there of their means of obtaining a livelihood and it will also have a disastrous effect on the fishing in the lower reaches of the stream. The supply of shad every year comes from two sources, the first natural and the second artificial. As long as only comparatively few fish were taken each year the fish ascended in sufficient numbers to their spawning beds to keep up the wanted supply. With the increase of demand there came an increase in the number of nets and fishermen and artificial means were resorted to for the purpose of keeping up the supply. For many years the United States Fish Commissioners and the State of Pennsylvania through its Fish Commission have taken hundreds of thousands of shad eggs and after developing then planted the fry in the upper waters of the river. This is at present the principal source of supply of shad. But just as soon as it appears impossible for the shad to ascend the river to their natural spawning beds so soon will these fish desert the Delaware river just as they did a few years ago the Connecticut. The source of supply for both natural and artificial hatching will disappear and the Delaware will be added to the number of rivers which once were prolific with shad life but which of late years have become valueless for that purpose.

The second point worthy of consideration is as to the benefit which will accrue to the State of New Jersey by an increased flow in the canal of the Trenton Water Power Company and the consequent destruction of the shad fishing industry. An official of the water power company is authority for the statement that the income from the water power is very small and that at times it is a difficult matter for the company to secure more receipts than the expenditures amount to. Even at best the supply of water is precarious and a number of the manufacturing establishments in Trenton which formerly depended upon the water power company for water for motive power have substituted steam or electricity. The water power company is owned by the New Jersey Steel and Iron Works, a corporation which formerly used the water for motive power but which has wholly abandoned it, having substituted steam instead. It will consequently be seen that the advantage to be gained by the manufacturing interests of Trenton is very slight. On the other hand the shad industry brings in a return every year of considerably over half a million dollars to the men who are engaged directly in taking the fish from the water. The benefit of the shad industry to New Jersey, when the commerce in the fish and the supply of a delicious as well as nutritious article or food are considered, is almost incalculable.

The next point worthy of consideration is as to the rights of the

Trenton Water Power Company to construct and maintain the dam in its present condition. There is a mass of legislation on this subject but only the more salient enactments need be referred to.

The first enactment of any importance is a law passed by the legislature of this state on May 27, 1783, which declares that the river Delaware, from the northwest corner of New Jersey to the place upon the said river where the circular boundary of Delaware toucheth upon the same, is, and shall be and remain a common highway, free and open for the use of both New Jersey and Pennsylvania. This enactment, in the form of a treaty between two adjoining states, was ratified by the legislature of Pennsylvania on September 20, 1783, and it has ever since formed the basis for all legislation, no laws pertaining to the Delaware river going into effect until passed by the legislatures of both states.

As early as November 26, 1808, the legislature of New Jersey passed a law providing that if any person shall erect, set up, build or maintain any wing dam, except such as may be put up in pursuance of any special act of the legislature, or placing any other obstruction injurious to the navigation of the river Delaware, he shall be subject to a penalty of one hundred dollars. This act was subsequently supplemented by additional legislation of a similar nature in which the penalties were materially increased.

In 1815 the Bloomsbury Wing-dam and Mill Company was chartered for the purpose of erecting a dam between the New Jersey shore and Yard's island. Although this corporation subsequently sold out to the Trenton Water Power Company by authority of the legislature on representations made that the Trenton company could supply the Bloomsbury company with water and that consequently there was no further need for the existence of the latter company, there is no law whatever conferring upon the Trenton company any of the franchises possessed by the Bloomsbury company. But even if such were the case no greater rights could be disposed of than had been granted by legislative enactment and the charter of the Bloomsbury company expressly provides that any dam they may erect shall have in it a sluiceway large enough to permit the passage of any "Durham" boats or other boats which had been plying on the river and that this sluiceway shall not be less than twenty feet in width.

The first dam at Scudder's Falls was erected by commissioners appointed by the legislature of Pennsylvania in 1819 and the object of the dam was to increase the flow of water in order that rafting might not be interfered with during stages of low water. It had no connection whatever with furnishing a water power and its sole object was to deepen the channel by increasing the

flow of water, a proceeding certainly not injurious to the fish industry.

The Trenton Delaware Falls Water Company was chartered on February 15, 1831, and in 1844 it was sold out in pursuance to legislative enactment, its franchises being acquired by the Trenton Water Power Company. The amendments made to the charter in 1833 and in subsequent years in no way whatever increase the powers of the company in the matter of the erection of dams or furnishing a supply of water for motive power or any other purposes. The charter of the Trenton Water Power Company stands today just as it did when the governor signed the bill granting it in 1831. In this charter there is a clause which provides in the plainest of English that under no circumstances shall the erection of any dam by this company in any way interfere with the going up or down the river of "fish, rafts, arks and boats."

In 1866 commissioners were appointed by the State of Pennsylvania for the purpose of improving the navigation at Scudder's Falls, the legislature of New Jersey having some time previous appointed a commission for the removal of a sandbar injurious to navigation situated in the river some distance below Trenton. The Pennsylvania Commissioners constructed what has been subsequently known as the Scudder's Falls dam, changing the location of the dam erected by the Pennsylvania commissioners in 1819. In 1870 a number of raftsmen complained that the dam instead of assisting them in the pursuit of their work had a deleterious effect upon it and the result was the institution of a suit in Doylestown, Pennsylvania, in which the right of the commissioners to erect the dam was questioned. It was shown that the terms of the commissioners had expired by legal limitation before the work was done and the courts not only imposed a penalty of \$100 on the Trenton Water Power Company for maintaining the dam contrary to law but also directed the sheriff of the county to remove the dam within a month. The court also issued an injunction restraining the company from further maintaining or repairing the dam. Why the order of the court was not complied with does not appear of record and the only explanation offered may be found in the report of the Chief of Engineers of the United States for the year 1873 in which the statement is made that the company "bought up" the sheriff.

An examination of the Pennsylvania laws made by counsel employed for that purpose by the Pennsylvania Fish Commission shows that neither the Trenton Water Power Company nor any corporation or private individual whatever obtained from the state of Pennsylvania any right for the construction of a dam in the

Delaware river, from the time the legislature in 1771 declared the Delaware river navigable and prohibited the erection of all kinds of dams down to the present year, excepting of course from this statement the unlawful work done by the 1866 commissioners.

But it seems apparent that the dam at Scudder's Falls is there not only in direct violation of the laws of New Jersey and Pennsylvania but also contrary to the provisions of the laws of the United States. In the enactments of Congress in 1892 will be found a law declaring the Delaware river to be navigable as far as Easton and a recent opinion of the Attorney-General of the United States is to the effect that rafting makes a river navigable. The ninth section of the River and Harbor act, passed March 3, 1899, prohibits the erection and maintenance of all dams in all navigable streams without the consent of Congress and the approval of the secretary of war and the chief engineer of the United States Army, excepting from this sweeping enactment only such streams as lie wholly within one state. The penalty for a violation of this law is fixed at a fine of between \$500 and \$2,500 and imprisonment for one year. The thirteenth section of the same act makes it unlawful for any person or corporation to deposit from a boat or from the shore into any navigable river any refuse matter or materials of any kind. The law provides a method of procedure by information lodged with the collector of customs at the nearest port and subsequently prosecution by the attorney-general of the United States.

Recognizing the importance of this matter to a large portion of the inhabitants of this state arrangements were entered into for a conference with the Fish Commission of Pennsylvania, which resulted in a meeting held in Philadelphia on October 4th, and a subsequent meeting in Trenton on October 19, at which time the matter was thoroughly gone over, a careful inspection of the dam being had on the latter date. Complaints similar to those received by the New Jersey Commission had also been received by the Pennsylvania Commission and that body was ready and anxious to take any and all steps necessary for the purpose of preserving the shad industry of the Delaware.

For the purpose of making a demand upon the Trenton Water Power Company to restore the river to its state previous to the erection of the cribwork last spring and ascertaining what position the company would assume in regard to the matter Mr. William J. Barbour, a lawyer of New Jersey, was instructed to wait upon the officers of the company. President Hewitt expressed himself as perfectly willing to abide by an agreement made some four years ago between his predecessor in the office of president of the company and

the then Fish and Game Protector, Mr. Charles A. Shriner. Mr. Hewitt also declared that his company had no intention whatever of interfering with the shad industry and expressed a wish to do anything which the New Jersey Commission might deem necessary to be done. It appears that some four years ago complaints were made that young shad were coming down the canal of the Trenton company in large numbers to be ground to death in the turbine wheels, thus inflicting a serious injury upon the shad fishing industry. The dumping into the river of material for the construction of the annual temporary dam had thrown nearly all the water of the river into the canal and naturally the fish followed the current. Mr. Shriner took hold of the matter and the result was that an agreement was entered into by which the Trenton company agreed not to reduce the size of the sluiceway from its then dimensions and also agreed to maintain a fine mesh net or screen at the point where the water from the river enters the canal of the company, the object of the net or screen being to prevent the young shad from getting into the canal. This agreement was kept by Mr. Stokes who was then president of the Trenton company and that it had its desired effect was made evident by the fact that the complaints about the destruction of shad ceased. This year, however, the Trenton company has not only removed almost entirely the sluiceway but it has been very negligent in maintaining the net or screen.

From a statement made by an officer of the company it is apparent that the company insists that it has a right to maintain the dam because, as the officer put it, it is only making permanent the work done by the Pennsylvania commission appointed in 1866. That this position is untenable is readily apparent from the fact that not only did the Pennsylvania courts declare the work done by the 1866 commissioners unlawful because it was done after the terms of the commissioners had expired, but that the dam then constructed contained a sluiceway large enough to permit the floating down the stream at all times of large rafts.

In pursuance of the offer of President Hewitt of the Trenton company to do what the New Jersey Commission deems necessary to be done for the preservation of the shad fishing industry in the Delaware I have sent to him a letter of which the following is a copy:—

THE NEW JERSEY BOARD OF FISH AND GAME COMMISSIONERS.  
 MT. ARLINGTON, OCT. 24, 1899.  
 MR. CHARLES E. HEWITT,  
 President Trenton Water Power Company,  
 Trenton, N. J.

Dear Sir:—I am informed by Mr. William J. Barbour, whom I

recently sent to you in relation to some complaints that the construction and maintenance of a dam by your company was destructive to the shad fishing industry of New Jersey, that your company is willing to do whatever this commission may deem necessary to be done. In pursuance of this offer on your part I desire to assure you that the New Jersey Commission has no intention whatever of interfering with your business except in so far as it may be necessary to do so in accordance with our duties as fish and game commissioners. It is my opinion that your company should promptly remove wholly the cribwork recently placed in the sluiceway at Scudder's Falls, permitting that sluiceway to remain free and unobstructed as it is apparent that it should be in conformity with the laws of this state. I also deem it important that your company should erect some permanent screen to prevent the young shad from entering your canal in the fall of the year.

Trusting that you may see your way clear to the making of these improvements and hoping for a favorable reply I am

Very truly yours,

H. P. FROTHINGHAM,  
President.

I have as yet received no reply to this letter.

All of which is respectfully submitted.

Mt. Arlington, October 21, 1899.

H. P. FROTHINGHAM,  
President.

No answer has as yet been received from the Trenton Water Power Company and the matter is still in abeyance. Mr. Blackwell, Assemblyman from Hunterdon county, has been of great assistance to your commission in this matter and there is no doubt that his aid may be depended upon in the future.

The next meeting of the Pennsylvania and New Jersey Commissions for the purpose of determining further what shall be done has been called at Philadelphia for the 8th of November, by which time it is hoped a de-

finite answer shall have been received from the Trenton company.

For the purpose of avoiding any such further cases your commission would suggest the enactment of a law prohibiting the erection of any obstructions in the Delaware river injurious to the shad fishing industry.



### Part III.--Legislation.

**T**HERE is no state in the Union, and there are very few countries in the world, where fish and game are not accorded some kind of protection. Fish and game are ever moving about and consequently it has always been deemed proper that there should be general laws protecting them and thus saving them from being exterminated. For if each landowner were to do as he likes on his own property it would be but a very short time before fish and game would entirely disappear. States recently admitted to the Union have laws more stringent as a rule than the older states, for experience has shown that it is never too early to begin protecting fish and game and that the sooner a reasonable code of laws is enacted and enforced the better it is for the propagation of all species of useful wild animals. It would be difficult to find any state where beneficial effects are more likely to result from proper protection of wild fauna than New Jersey. We have fields and waters in abundance where the wild fauna will thrive and the benefits to be derived from their proper protection are almost incalculable. Not only do the shad and sturgeon and the hundreds of fish which frequent our coasts afford a means of livelihood for hundreds of fishermen, but our fresh waters and our woods and fields are sought by hundreds of sportsmen who materially contribute to the wealth of the state, for the liberality of the average sportsman is well known.

For some years New Jersey has assumed a position in the first rank among states which accord proper protection to fish and game and which enforce the laws thus called for, but with all the flattering comments which have been heard from every part of the country it must

be admitted that some of our laws are still crude and every person at all conversant with the subject will admit that there is room for material improvement in our fish and game laws. Our laws for the protection of fresh water fish have been on our statute books for a number of years and there has been little demand for their modification. These laws are simple and easily understood and they are in the main reasonable; there should be no reason why the laws protecting game should not be likewise.

It is manifestly impossible to frame a game law which will be satisfactory to all and the complaint will probably ever be heard that there was more game when there was less legislation. That is undoubtedly true but the fact should be remembered that New Jersey's population has increased greatly of late years and that not only are the guns more numerous and more deadly but that with the spread of civilization the area where game will thrive has become annually more reduced. The increase of gunners has been in an inverse ratio to the decrease of game covers. This fact was well recognized some years ago but of late it seems to have been practically lost sight of, for the history of legislation for the past few years shows that the gunners are afforded more liberties and that the seasons for killing game have been increased when just the opposite should have resulted.

Our present game law is not only peculiar, to say the least, in its provisions, but it is difficult in its enforcement. The law provides for some kind of shooting from the first of July to the first of January and the violator of the law and the pothunter are given abundant opportunities for killing game out of season. The true sportsman, who observes all laws, those pertaining to trespass as well as those providing for open and close seasons, needs no game laws, for he knows that if game is shot during the breeding season or when it

is immature there will soon be an end to his sport. The Indians of Canada, who are affected by no game law, are far more observant of proper seasons, than are the white settlers. The Canadian laws nearly all provide that their provisions shall not apply to the aborigines, for the latter have been taught by experience when to kill and when to give game a chance to thrive. It is the violator of the law, the man who cares not whether any game is left for another year as long as he has license to kill the present year, who cares not whether he destroys the farmer's property or whether harvests are ruined by his ruthless slaughter of birds, who makes game laws a necessity. This is the man who goes out in July under the pretense of hunting woodcock and kills the sitting partridge and the gravid squirrel and this is the man whom it is necessary for the law to reach. Our law simply protects and assists him for it opens to him for six months every year the season for killing all kinds of game. His capacious pockets, which the law prevents the warden from examining, are undoubtedly more frequently filled with game which should not be shot than with lawful prey.

When the first fish and game laws were enacted in this state the necessity for ample protection had so impressed itself on the minds of the legislators that the penalties prescribed were severe. It was presumed that every citizen would recognize the necessity of protection and that consequently every citizen would make it his duty to bring the offender to the bar of justice. That this presumption was erroneous time has amply proven, for the average citizen shrank from being made the instrument of punishment for an offence which in itself did him little injury. Less than ten years ago a statute of this state imposed a penalty of six months in state prison on the hapless mortal who took a yellow perch at the wrong time of the year; at present perch may be taken at all times as long as a net is not used

in their capture and the highest penalty that can be inflicted on the most unscrupulous and destructive violator of the law is not more than a fine of fifty dollars, or imprisonment for ninety days in default of the payment of the fine. There has been a proper reduction in the severity of the penalties, but not as much as your commission would consider proper. If the penalties of the laws of today were to be reduced fifty per cent., even with the present machinery for the enforcement of the laws, we believe that it would conduce to better preservation of fish and game, for severe penalties frequently act as a deterrent argument against the enforcement of the law.

The members of your commission have devoted a good many years of application to the study of the problem of proper protection and they have had the advantage of an extensive correspondence with men who have made the wild fauna a life study. Legislatures in the past have frequently ignored the recommendations of fish and game commission, but unfortunately the general public has always held the commission responsible for the existence of obnoxious or unreasonable laws. In order that this impression may not continue your commission desires to present for your consideration a code of fish and game laws such as your commission feels confident would meet with the views of every person interested in the protection of fish and game. The changes suggested are neither numerous nor novel, nor are they the result of the observations and experiences of New Jersey commissioners alone, but they are the best fruit of the study of naturalists the world over. Your commission can, however, but suggest; the practical application of the best ideas lies wholly in your hands.

The first change which suggests itself in the game law, taking the latter seriatim by sections, is a better definition of the terms "wild deer" and "English pheas-

ants." The law passed last winter providing a close season for three years for deer is an excellent measure and no argument has been adduced for its being disturbed. It was evidently the intention of the legislature in providing protection for deer to exclude from this provision deer kept in enclosures. In the few preserves in New Jersey the deer are private property brought hither from other states or reared in confinement, and in every instance the owners pay taxes on these deer just as they do on their cattle. The law pertaining to ring-necked pheasants has been the subject of some confusion and the question has been frequently asked "What is an English pheasant?" If the place of origin of the species should be indicated in the name then what is known as English pheasants, golden pheasants, ring-necked pheasants, and nearly all other kinds of pheasants should be called Asiatic pheasants. The appellation "English" is due to the fact that these birds have been raised for many centuries in England and that they were brought hither from that country and consequently the term English pheasants would apply with equal propriety to nearly every one of the many different varieties of the bird. What is at the present day generally designated as the English pheasant is the Phasianus colchis, whose principal distinctive marking is the broad collar of purple extending from the head almost to the shoulders. Crossing this bird with the Chinese variety of pheasant has produced what is known as the Phasianus torquatus; the principal difference in appearance between this bird and the English bird is that the Phasianus torquatus has a broad white collar in the purple coloration of the neck, the white separating the rufous coloring of the body from the purple neckband. These two birds have been inbred, being fertile inter se, until there is a gradation of species between Phasianus colchis and Phasianus torquatus. The latter bird, although the pure Chinese bird is also fre-

quently designated as torquatus, is the ring-necked pheasant of the New Jersey law. The English bird is tamer, not so hard a flyer, less given to moving from the place where it was reared than the ring-necked; the English bird very seldom reproduces its own species and requires great care in handling during the breeding season, whereas the ring-necked female will not only hatch out her eggs but will also take care of her young. The latter bird was introduced in this state by your commission; the English is reared only in preserves and is hardly more entitled to be called a game bird than is our domestic fowl. A plainer definition of these terms in our law would avoid a great deal of confusion.

The present law permits the killing of English snipe only during the months of March, April and September. On the principle that birds should be killed when they are in the best condition for the table this law should be changed so as to include October, or the latter month might be substituted for September, for the birds are hardly full grown in the earlier month whereas in October they are large and well-fed.

The concensus of opinions of both persons who shoot reed and rail birds for their own consumption and those who kill them for the table is that the birds are hardly fit for the table during the month of August and there is little doubt that a majority of the persons most interested would prefer the law as it stood two years ago, opening the season for these birds on the first of September.

The objection to the law protecting insectivorous birds is that it is entirely too general and sweeping. After enumerating certain birds not to be killed the words "or other insectivorous birds" are added. The question naturally arises as to what constitutes an insectivorous bird. Is a bird to be regarded as insectivorous which feeds on insects for two or three weeks every year? Under the provisions of the present law

persons might be prosecuted for killing shore birds, for these feed to a great extent on aquatic insects, and a prosecution against a person for having killed reed birds during the open season would result in a conviction, for the reed birds destroy insects in large numbers and the prohibition of the law against killing insectivorous birds is certainly sweeping. In order to remedy this difficulty your commission would suggest the naming of the birds which are to be protected.

Complaints from all parts of the state have been numerous regarding the destruction of game, especially the immature, by dogs running at large. To provide that all dogs should be kept on chain would be unreasonable but the protection of our game indicates the necessity of applying this rule to hounds. The latter are used for tracking game and they generally destroy the game when they overtake it; this is not the case with setters, pointers and other kinds of dogs and your commission does not think that it would be inflicting a hardship on the owners of hounds if those dogs were kept on chain or in confinement excepting during the open season for rabbits. This also suggests a slight change in the section prohibiting hunting on Sunday. A great many persons are fond of taking their setters or pointers to the fields and woods on Sundays for the innocent amusement of watching the dogs trail game; this does no injury to game and for this reason should not be prohibited.

The most vexatious parts of the fish and game laws are the sections which provide open and close seasons for partridge or pheasant, quail, hare, squirrel and other game of the woods and fields. Experiments at dividing the state into two sections, deemed feasible at one time on account of the difference in the climatic conditions between the northern and the southern part of the state, have proven failures, for while such a law might be satisfactory to the extreme upper and the

extreme lower part of the state it created dissatisfaction in the large territory lying between the two extremes. It is absolutely necessary that the seasons for the killing of game should be shortened, for at the present day the open seasons are longer than they were ten and twenty years ago, when there were far fewer gunners and more cover for game. It is on this account that your commission suggests the adoption of a general open season for the whole state. The principal difficulty in the way of the accomplishment of this much to be desired end is that if the season is not opened until the first of November the gunners in the northern part of the state are deprived of their October woodcock shooting. It is admitted that woodcock generally take their flight southward during the last light moon in October and that if gunning for woodcock were prohibited in the northern part of the state the gunners there would get no woodcock whereas the gunners in the southern part would reap an almost undue advantage. For this reason it is probable that July woodcock shooting will have to be tolerated for the present at least. As a matter of fact woodcock are becoming very scarce everywhere and if the manifest advantages of a general open season are considered it must be admitted that far more is gained in general results than is lost by the deprivation of sport in a part of the state by closing the month of October to woodcock hunters. After a due consideration of all the arguments which have been advanced on the subject your commission is of the opinion that a general open season from the first or tenth of November to the fifteenth of December or at the latest the first of January would be best for the interests of all concerned. Partridge or pheasant is generally considered the best game bird and unfortunately this bird is rapidly decreasing in number and it is impossible to secure more birds for stocking purposes, the extremely wild

nature of the bird rendering transportation next to impossible. Most of the western states have adopted drastic measures for the protection of this bird; Illinois has gone so far as to prohibit its killing excepting during the month of September, a month when on account of the foliage and the density of the undergrowth it is almost impossible to successfully hunt the birds. New Jersey at present permits the killing of the birds from the first of October to the tenth of December, a season which might almost as well have been extended to the first of January, the close of the quail and rabbit season. If instead of closing the season for twenty days in December that period were left open and the month of October taken away the law-abiding gunner would have very nearly as much time for gunning for this bird as he has at present. Your commission would also suggest the opening of the quail and rabbit season on the first or tenth of November and the closing on the fifteenth of December or the first of January. As far as rabbits are concerned there appears no good reason why these should not be shot during the first days of November and as for quail there are reasons peculiar to New Jersey why the season might better open a few days earlier than it does at present. The supply of quail in New Jersey would in most parts of the state have been exhausted years ago had it not been that hundreds of these birds are annually brought on from other states and released in New Jersey. Your commission has invariably brought birds from the west, when the appropriation permitted such a course, for it is a well known fact that birds from equally high latitudes in the West are not so apt to migrate as are birds brought on from the South. But there are hundreds of sportsmen and fish and game associations who purchase the southern birds on account of the lower price. As far as quail are concerned New Jersey is approaching conditions prevailing in England and other European countries where the supply of game is almost wholly dependent

upon stocking and for this reason our laws should be made to conform to those of similar countries as far as the somewhat modified conditions here indicate. Birds do not migrate singly or in pairs; when they leave on account of cold weather they do so in flocks; now it is seldom that there is any extreme cold weather before the first of November and if the birds were shot at a few times before cold weather sets in it would serve to scatter the flocks and thus effectually prevent them from migrating. That even the southern quail can stand our severe winters has been shown on numerous occasions and under these circumstances it would be the part of wisdom to follow the examples of European countries by preventing them from migrating by scattering the flocks. It has been suggested by some that perhaps a close season on quail for a term of years might be advantageous but the experience of the older countries of Europe is directly to the contrary. In England where estates were tied up and all gunning prohibited for a number of years it was found that at the expiration of that period there were fewer birds of the quail species than there were when the close season began. The difficulty with quail and other birds which gather in flocks is that the older birds insist on dominating the younger and when they are not distributed or scattered the older cocks will frequently prevent the mating of the younger or, when mating has taken place, interfere with their domestic arrangements. It is another case of too much mother-in-law or too much father-in-law. A surplus cock in a flock will do more mischief than can be counteracted by the proper behavior of a dozen mated birds. For this reason it is to the advantage of the numerical strength of the birds if the flocks are scattered, for a flock of birds reduced by one-half and scattered will produce more young than would the flock if kept entire and together.

There is no reason apparent why the present open and close seasons for taking of fresh water fish should

be disturbed. But your commission would urge the amendment of the law in such a manner as to prohibit the use of the spear altogether. Of late years violators of the law have resorted to this means for the unlawful capture of fish. In the first place when spearing is done at night, as is almost invariably the case, it is difficult to tell the difference between the various kinds of fishes and it is also difficult to resist the temptation while spearing for fish, whose capture is permitted by law in this manner, to take others which are protected by law against the spear. Another very advantageous change would be if fishing at night were prohibited, for this kind of fishing is almost exclusively followed by persons who have little or no regard for the law. As to the use of bait nets your commission would suggest a modification by increasing the size of the nets to be used in the larger lakes. At present the law prohibits the use of a baitnet longer than twenty-five feet, an ample length for small streams and small ponds. But a net of that size is practically worthless for Lake Hopatcong and Greenwood lake and for this reason your commission would suggest that it may be lawful to use a larger net in ponds having an area of over a hundred acres.

Unless some proper protection is afforded to the different species of fish introduced into the waters of this state during the past few years all hopes of establishing these fish here and all further experiments in this direction might as well be abandoned. If laws were passed prohibiting altogether the taking of these fish angling for other kinds would be seriously interfered with and for this reason your commission would suggest protection to these fish such as is accorded to other and indigenous fish of similar natures.

A novel contrivance for the taking of fish has been recently patented and placed upon the market and it has been followed by stringent enactments in several states against its use on account of its exceedingly

destructive character. The contrivance is generally known as the "clothespin" bait and its use should be prohibited. It bristles with hooks and no fish, large or small, which once strikes it has the slightest chance for its life; the very essence of sport, giving the animal to be taken a chance for its life, is practically eliminated. A law prohibiting the use of any contrivances having more than three hooks would obviate the evil without in any way interfering with the legitimate sport of angling.

Your commission would also suggest following in the footsteps of many states younger and less populous than New Jersey by tightening the lines about the export of game. Our game covers, in many places artificially stocked and everywhere protected at the expense of the state, cannot afford to supply the markets of New York and Philadelphia with partridges, quail and some of the other more valuable species of game. There is not the slightest desire on the part of your commission to suggest any interference with reed birds and other animals which on account of their large numbers and migratory habits form a commercial product in the gathering of which many citizens of New Jersey are vitally interested, but the traffic in the more valuable and scarcer varieties should be stopped.

There is one more feature of the general fish and game act to which your commission desires to call attention and that is the section in regard to trespassing on private property. According to the law the officers of the state have nothing whatever to do with the protection of property reserved for gunning by private individuals and by associations, but the fish and game wardens are required to enforce the laws against fishing on private property. This, it will be admitted, is an anomalous state of affairs. The fish and game laws were never intended to afford protection to private landowners; that belongs to an altogether different branch of legislation. In order to obviate this difficulty

your commission would suggest the repeal of the section requiring wardens to enforce the laws relative to trespassing for fishing and at the same increase the powers of landowners in the protection of their private domains.

The complaints from along the seashore relative to the existence there of large nets which stretch hundred of yards into the ocean have been just as severe during the past few years as in preceding years and your commission cannot but reiterate what previous commissions have said on this subject, that these nets are detrimental in many places and that some law should be passed governing them. Not only do these nets interfere with the gaining of a livelihood by thousands of hardy fishermen but when they are erected near the outlets of bays they prevent the fish from entering the inland tide waters for the purpose of spawning. Poundnets are regulated in all other states and are made subject to taxation; in New Jersey the most destructive method of taking fish is absolutely unrestricted.

The law passed by the legislature last winter limiting the size of clams which can be lawfully retained is an anomalous enactment. It prohibits the taking, possession and offer to purchase of hard clams less than an inch across the hinge or back and of soft clams less than two inches across the hinge or back. Although the state has an oyster commission the enforcement of the clam laws was made part of the duties of the fish and game wardens. Aside from the fact that no appropriation whatever was made for defraying the expenses of such enforcement, the moneys placed at the disposal of your commission being all appropriated for certain specific purposes, the law is a difficult one to enforce. The first problem which presented itself was as to what is the back of the clam and where does the back begin and end. None of the United States reports and none of the reports of numerous shell-fish and fish and game commissions use the word "back." The clam

diggers along our coast were of different opinions as to the definition of the term, some asserting that it meant the thickness, others the length of the clam. Other states have passed laws requiring licenses to take clams, limiting the number a person might take for the purpose of selling them and imposing taxes on the clams taken, but New York and New Jersey are the only two states which ever attempted to limit the size of the clams to be taken. In 1895 New York passed a law limiting weight of dredges and prohibiting the taking of clams less than an one inch in thickness, making it also unlawful to use dredges or tongs with teeth less than an inch apart. This law was amended two years later by removing the prohibition against having small clams in possession and in the following year the whole law was wiped out. The cause of the repeal was due to the fact that it was considered poor policy to remove the breeders from the water and leave behind those too young to procreate the species. According to the New Jersey law not only is the clammer himself amenable but every person who buys or even offers to buy a plate of "little necks" may be prosecuted and convicted. According to the law which provided for the appointment in New Jersey of a Board of Fish and Game Commissioners that body is to look after all fish and game; clams come in neither category and for this reason your commission would suggest the repeal of that part of the clam law which provides that it shall be enforced by the wardens.

The present law, under which the Board of Fish and Game Commissioners is appointed, provides that the Board shall make its report annually for every year closing on the thirtieth of November. The fiscal year begins on the first of November and all other state boards are required to make their reports in accordance with the term of the fiscal year. For the purpose of avoiding confusion your commission would suggest

that the annual report be made in accordance with the beginning and ending of the fiscal year.

In accordance with the foregoing suggestions and those made in the remarks preliminary to the record of prosecutions your commission would accordingly suggest the passage of the following measures:

An act to regulate fishing in the Delaware bay, river and the tributaries of said bay and river.

Be it enacted by the Senate and General Assembly of the State of New Jersey:

1. It shall be unlawful at all times of the year to take from the Delaware river, the Delaware bay or any of the tributaries of said bay or river, any fish by any means whatsoever, excepting as may be hereinafter particularly set forth and provided, under a penalty of fifty dollars.

2. It shall be lawful to take from the Delaware river, the Delaware bay or any of the tributaries of said river or bay, by the use of hook and line, in the manner commonly known as angling, black bass, strawberry bass and white bass, between the thirtieth of May and the thirty-first of December, both inclusive, in each and every year; pike, pickerel, perch and pike-perch (frequently called Susquehanna salmon or wall eyed pike) by the use of hook and line in the manner commonly known as angling, between the first of May and the twenty-second day of February, both inclusive, in each and every year; and catfish, eels, sunfish and every other kind of fish whatsoever, salmon excepted, by the use of hook and line in the manner commonly known as angling, during all times of the year.

3. It shall be lawful to fish for shad and herring and striped bass (frequently called rockfish,) in the Delaware river, the Delaware bay and the tributaries of said Delaware bay or river, between the first day of February and the fifteenth day of June, both inclusive, in every year, by the use of gill-nets and sweeping seines, on any day of the week excepting from the hour of five p. m. on Saturdays until midnight between Sundays and Mondays; provided, however, that such gill-nets shall not in any manner be fastened to the bottom of the river or to the shore; and provided further, that the size of the mesh of the gill-nets used for taking shad and striped bass shall not be smaller than five inches, and the size of mesh for taking herring shall not be smaller than two and three-fourths inches.

4. It shall be unlawful to sell or offer for sale any fresh shad caught in the Delaware river, the Delaware bay or the tributaries of said river or bay, excepting before the first day of July of each

year, under a penalty of ten dollars for every shad so unlawfully sold or offered for sale.

5. It shall be lawful to fish for carp in the Delaware river, the Delaware bay or the tributaries of said bay or river, at such times and in such manner as are provided for the fishing for shad.

6. It shall be lawful to fish for carp, eels, catfish and suckers in the Delaware river, the Delaware bay and the tributaries of said river and bay, at all times by the use of sweeping seines or the use of nets placed parallel to the channel of the river at high tide, upon license issued by the Board of Fish and Game Commissioners of New Jersey; provided, that each licensee shall enter into bonds in the sum of two hundred dollars to said Board of Fish and Game Commissioners to return to the river in good condition and uninjured as far as possible all fish excepting carp, eels, catfish and suckers; provided, that all licenses of a similar nature issued by the Board of Fish Commissioners of Pennsylvania shall be held as valid and effective in New Jersey as if they had been issued by the Board of Fish and Game Commissioners of New Jersey.

7. It shall be lawful to fish for salmon in the Delaware river, the Delaware bay and the tributaries of said river and bay, in each and every year between the first day of March and the fifteenth day of August, both dates inclusive, by the use of hook and line in the manner commonly known as angling; provided, all salmon less in weight than three pounds shall be returned to the river; it shall also be lawful for fishermen using gill-nets or sweeping seines for shad to retain all salmon weighing three pounds and over which they may take in their nets.

8. It shall be unlawful for any person to retain any black bass, pike-perch (frequently called Susquehanna salmon or wall-eyed pike), or striped bass (frequently called rock fish), measuring in length less than nine inches, under a penalty of ten dollars for each fish so retained.

9. It shall be lawful at all times of the year to fish for eels and catfish by the use of wicker eel-pots or similar contrivances for the taking of eels and catfish only; provided, that such eel-pots or similar contrivances shall be so weighted as to remain on the bottom of the stream or bay and shall not be provided with wing walls or leaders of any kind whatsoever; and provided further, that no contrivance for the taking of eels and catfish shall have an opening exceeding fifteen inches.

10. It shall be lawful to use small seines and scapnets, the seines not exceeding forty feet in length, for the taking of baitfish, provided that the young of game fish shall not be injured thereby, and nothing in this act shall be construed to interfere with the taking of fish at any time and in any manner by the Board of Fish and

Game Commissioners of New Jersey or the Board of Fish Commissioners of Pennsylvania.

11. It shall be unlawful at all times of the year to erect or maintain any dams, wing-walls or other obstructions of a size sufficient to impede the passage of shad under a penalty of one hundred dollars; whenever in the opinion of the Board of Fish and Game Commissioners of this state, or a majority of such board, and in the opinion of the Fish Commission of the state of Pennsylvania, or a majority of them, such opinion having been expressed in the form of a resolution and spread upon the minutes of both such Board of Fish and Game Commissioners of New Jersey and the Fish Commission of Pennsylvania, any such obstruction shall be deemed as materially interfering with the progress up and down the river of shad, such Board of Fish and Game Commissioners of New Jersey is hereby authorized summarily to remove said obstruction and for so doing no suit for damages shall lie against such Board of Fish and Game Commissioners of New Jersey or their duly authorized agents and employees whose services may be deemed necessary for the removal of such obstruction.

12. The provisions of this act shall be enforced in accordance with the method of procedure provided by the legislature for the enforcement of laws pertaining to the taking of fish and game.

13. All laws inconsistent with the provisions of this act shall be and the same are hereby repealed in so far as they are so inconsistent with this act, but nothing in this act shall be so construed as in any manner interfering with any of the rights or privileges hitherto obtained under the laws of this state or which may be hereafter so obtained, or with any protection against interference with any such rights and privileges; and nothing in this act shall be so construed as in any manner abrogating or modifying an act of the legislature entitled "An act for the protection of mammosse or young sturgeon in the Delaware bay, river and their tributaries," which act was approved March 24, 1890; as such act was amended by an act approved April 1, 1891; and nothing in this act shall be construed as in any manner abrogating or modifying an act of the legislature entitled "An act for the protection of sturgeon," which act was approved March 22, 1895; and provided, further, that this act shall not apply to the tributaries of the Delaware river and bay as far as such tributaries may be above tidewater, and that as far as said tributaries above tidewater are concerned the acts of the legislature regulating the taking of fish in the fresh waters of this state shall remain in full force and effect.

14. This act shall go into effect as soon as the legislature of Pennsylvania shall have adopted a similar measure.

An act for the protection of certain kinds of birds, game and fish, to regulate their method of capture and provide open and close seasons for such capture and possession.

1. It shall be unlawful to pursue with intent to kill or injure or in any matter to attempt to take or injure, and it shall also be unlawful to kill, or destroy or injure any hare (sometimes called rabbit), quail, (sometimes called partridge) ruffed grouse, (sometimes called partridge or pheasant), pinnated grouse (sometimes called prairie chicken), ring necked pheasant, gray snipe, (sometimes called English or Wilson snipe), duck, brant, goose, dove, swan, gray, black or fox squirrel, woodcock, reed bird, rail-bird, marsh-hen, grass or upland plover, or other game bird or game animal, in any manner whatsoever, except in the manner usually known as hunting with gun, the gun being such as may be held at arm's length and fired from the shoulder without rests, and at such times as may be permitted in this act, under a penalty of twenty dollars for each offence.

2. It shall be unlawful for two years after the passage of this act to take, kill, injure or destroy, or to hunt with intent to take, kill, injure or destroy, or to have unlawfully in possession any wild deer, buck, doe or fawn, and after the expiration of said two years it shall be unlawful to take, kill, injure or destroy, or to hunt with intent to take, kill, injure or destroy, any wild deer, buck, doe or fawn, excepting only on every Wednesday in the month of November, under a penalty of one hundred dollars for each and every wild deer, buck, doe or fawn so taken, killed, injured or had in possession and of one hundred dollars for each attempt to take, kill, injure or destroy deer, buck, doe or fawn, and the having in possession of any such deer, buck, doe or fawn, during the times and periods prohibited in this act, or either of them, shall be prima facie evidence in all courts and places of the fact that they are in possession unlawfully; provided, however, that this section shall not be construed to interfere with owners of deer preserves, at present established, hunting or killing their deer whenever they see fit or disposing of them as they may see fit. And it shall be unlawful for two years after the passage of this act to take, kill, injure or destroy, or to hunt with intent to take, kill, injure, or destroy or to have unlawfully in possession any Phasianus torquatus or ring-necked pheasant, and after the expiration of said two years it shall be unlawful to take, kill, injure or destroy, or to hunt with intent to take, kill, injure or destroy or to have unlawfully in possession any Phasianus torquatus or ring-necked pheasant excepting only during the months of November and December of each year, under a penalty of twenty dollars for each Phasianus torquatus or ring-necked pheasant so taken, killed, injured or destroyed and of

twenty dollars for each attempt to take, kill, injure or destroy such Phasianus torquatus or ring-necked pheasant; provided, however, that this section shall not be construed to interfere with the taking or possession of the Phasianus colchis, or English pheasant, nor any pheasants in preserves at present established.

3. It shall be unlawful to take, kill, injure or destroy or to have in possession any ruffed grouse, (frequently called partridge or pheasant), quail, (frequently called partridge), hare, (frequently called rabbit), or any English pheasant (known as Phasianus colchis), excepting during the months of November and December, under a penalty of ten dollars for each ruffed grouse, quail, hare or English pheasant so taken, killed, injured or had in possession.

4. It shall be unlawful to capture, kill, injure or have in possession any gray, black or fox squirrel, except only during the months of November and December, under a penalty of ten dollars for each gray, black or fox squirrel so captured, killed, injured or had in possession.

5. It shall be unlawful to capture, kill, injure or have in possession any gray snipe (sometimes called English or Wilson snipe), except only during the months of March, April and October; nor any reed-bird, rail-bird or marsh hen except only during the months of September and October nor any dove or upland plover except in the month of July in each year under a penalty of ten dollars for each snipe, reed-bird, rail-bird, marsh hen, dove or upland plover so captured, killed, injured or had in possession.

6. It shall be unlawful to take, kill, injure or have in possession any woodcock excepting only during the months of July and November, under a penalty of ten dollars for each woodcock so taken, killed, injured or had in possession.

7. It shall be unlawful to kill, wound, trap, snare, catch with bird lime or other substance, poison or drug, or have in possession any blue-bird, blue-jay, brown-thrasher, cardinal-bird, cedar-bird, chat, chewink, chickadee, cow-bird, brown-creeper, cuckoo, egret, finch, flicker, fly-catcher, yellow-bird, grosbeak, gull, night-hawk, humming-bird, kinglet, martin, meadow-lark, indigo-bird, king-bird, oriole, oven-bird, phoebe-bird, pewee, redstart, robin, shrike, snow-bird, sparrow, (the English sparrow, however, excepted), swallow, swift, tanager, tern, titlark, vireo, warbler, thrush, whip-poor-will, wood-pecker (the yellow-bellied wood-pecker, or sapsucker, however, excepted), wren, or yellow-throat, under a penalty of ten dollars for each bird killed, wounded, trapped, snared, caught with bird lime or other substance, poison or drug, or had in possession.

8. It shall be unlawful to rob the nests or take or destroy the eggs or nests of any wild bird whatsoever, except the nests or

eggs of the English sparrow, under a penalty of ten dollars for each nest so robbed and each egg so removed or destroyed.

9. It shall be unlawful for any person hunting or gunning after geese, duck or brant, or other web-footed wild-fowl, to place the boat, sink-box or other vessel or construction in which such person may lie in wait to kill said greese, duck, brant or other web-footed wild-fowl, at a distance of more than one hundred feet from ice, or from marsh or meadow, bar or bank, or heaped sea-weed not covered with water at high tide, and every such boat, vessel or other structure so used shall be attached securely to such ice, marsh, meadow, bar or bank, or heaped sea-weed by a line, and it shall be unlawful for any person or persons, with intent to capture or kill geese, duck, brant or other web-footed wild-fowl to hunt after or pursue the same in any manner except only between one hour before sunrise and one hour after sunset, under a penalty of twenty dollars for each offence.

10. It shall be unlawful for any person to pursue any goose, brant, duck or other web-footed wild fowl, or to shoot or to shoot at, or kill or wound the same from any boat or vessel propelled by any other means than by oars or paddles, or from any boat, vessel or other structure anchored or staked upon the waters of this state at a greater distance than one hundred feet from ice, marsh or meadow, bar or bank, or heaped sea-weed not covered with water at high tide, under a penalty of twenty dollars for each offence.

11. It shall be unlawful to catch, kill or injure or have unlawfully in possession after the same has been caught, killed or injured, any goose, duck, brant or other web-footed wild fowl, except only from the first day of October to the last day of April, both dates inclusive, in each year, under a penalty of ten dollars for each goose, duck, brant, or other web-footed wild-fowl caught, killed or injured or had unlawfully in possession, and the having in possession of any such goose, duck, brant, or other web-footed wild-fowl during the period prohibited in this section shall in every court and place be deemed prima facie evidence that the same are unlawfully in possession.

12. It shall be unlawful for any person to capture, kill, injure or destroy or to pursue with such intent, any of the game birds or other animals enumerated in this act, on his or her own property, or on the property of any other person or persons, except during the seasons and at the times and in the manner as in this act provided and any person violating any of the provisions of this act shall be liable to the penalties provided by this act for the violations thereof.

13. It shall be unlawful to have in possession, sell or offer for sale, any hare (sometimes called rabbit), quail (sometimes called

partridge), ruffed grouse (sometimes called partridge or pheasant), ring-necked pheasant, woodcock, pinnated grouse (sometimes called prairie chicken), English or Wilson snipe, reed-bird, rail-bird, marsh hen, grass or upland plover, duck, or any of the game birds or game animals enumerated in this act, after the same has been caught or trapped by means of any snare, snood, net, trap or device of any description whatsoever, under a penalty of ten dollars for each such bird or other animal so unlawfully had in possession, sold or exposed for sale.

14. It shall be unlawful for any owner, lessee or custodian of any hound or beagle dog, or such dog as may have been trained to hunt rabbits, to permit such dog to run at large in woods or fields inhabited by rabbits, during the close season for rabbits under a penalty of twenty dollars for each offence.

15. Whenever by this act the possession of any kind of game is prohibited after a certain specified date or within certain specified periods of time, all sales of dealers in game for a period of twenty days after the expiration of such fixed period or specified date shall prima facie be deemed lawful, and the penalties herein imposed for the possession of such game shall not apply to any dealer or the purchaser of any such game, within the extended period, unless it shall be shown that such dealer or purchaser had knowledge that such game had been unlawfully killed, captured or taken; nothing in this section, however, shall be construed to permit the possession, sale or purchase of game killed or taken in this state in violation of any of the provisions of this act.

16. It shall be unlawful to hunt with a hound or hounds, or with firearms or weapons of any kind, or to carry a gun in the woods or fields, on the sabbath day, commonly called Sunday, under a penalty of twenty dollars for each offence.

17. Nothing in this act shall be so construed as to prevent associations or individuals from bringing into this state any birds or other animals for the purpose of propagation, or from keeping such animals until a reasonable time for their release.

18. It shall be unlawful to take or to attempt to take any fish from any of the waters of this state by means of any contrivance whatsoever except in the manner commonly known as angling with hand-line or with rod and line, under a penalty of twenty dollars for each offence; provided, however, that this provision shall not apply to the catching of eels, at any time, by means of wicker eel baskets anchored on the bottom of streams and ponds, nor to the taking of eels by means of eel weirs from the fifteenth day of September to the last day of October, both dates inclusive, of each year; provided, also, that it shall be lawful to take minnows and other baitfish with a seine not over fifty feet in length

in all ponds and lakes which have an area of over one hundred acres and in all other waters with a seine not over thirty feet in length; in every such case, however, all trout, pickerel, bass, pike and pike-perch captured therein shall be immediately released therefrom uninjured as far as practicable; provided further, that it shall be lawful to take fish in any manner under the direction of or by permission given in writing by the board of fish and game commissioners.

19. It shall be unlawful to catch, kill, take or have in possession any black bass, pike-perch or white bass, except only from the thirtieth day of May to the last day of November, both dates inclusive, of each year; or any pickerel or pike except only from the first day of May to the twentieth day of February, both dates inclusive, in each year, under a penalty of ten dollars for each fish so caught, killed, taken or had unlawfully in possession; and it shall be unlawful in any manner to take any trout, bass, pike-perch, pike or pickerel between nine o'clock in the evening and daylight of the morning following under a penalty of ten dollars for each fish so taken.

20. It shall be unlawful to catch, kill, take or have in possession any brook trout except only from the first day of April to the fifteenth day of July, both dates inclusive, in each year, under a penalty of ten dollars for each fish so caught, killed, taken or had unlawfully in possession.

21. It shall be unlawful to kill, sell, expose for sale or have in possession any black bass, white bass or pike-perch measuring less than nine inches in length, or any trout measuring less than six inches in length, except for the purpose of stocking the waters of the state therewith and then only at the direction of the board of fish and game commissioners or upon license in writing first obtained from such board, under a penalty of ten dollars for each fish so killed, sold, exposed for sale or had in possession.

22. It shall be unlawful to place in any of the waters of this state any dynamite, giant or electric powder, or any explosive substance whatever, or any drug or poisoned bait, for the purpose of taking, killing or injuring fish, under a penalty of one hundred dollars for each offence.

23. It shall be unlawful to allow any dye-stuffs, coal-tar, sawdust, tan-bark, lime, refuse from gas houses, or other deleterious or poisonous substance or substances to be turned into or allowed to run in any of the waters of this state in quantities destructive of the life or disturbing the habits of fish inhabiting the same, under a penalty of one hundred dollars for each offence.

24. It shall be unlawful to shut off or draw off the waters of any pond, stream or lake in this state for the purpose of taking,

capturing or killing the fish therein, under a penalty of one hundred dollars for each offence.

25. It shall be unlawful to put, place, use or maintain in any of the waters of this state inhabited by pickerel, pike-perch, black bass, perch or trout, any setline or setlines, or to use upon a line for the taking of fish in such waters any contrivance having more than three hooks attached thereto, under a penalty of ten dollars for each offence.

26. It shall be unlawful for any owner, lessee or tenant of any property to permit the erection, construction or maintenance on his, her or their property of any of the contrivances for the unlawful taking of fish and game prohibited by this act, or to permit the setting of any fyke or other net or the drawing of any net whatsoever upon his, her or their property, under a penalty of ten dollars for each offence; and it is hereby made the duty of such owner, lessee or tenant to immediately destroy any and all such unlawful contrivances found or placed upon his, her or their premises, and no suit for damages shall lie or be maintained against any property owner, lessee or tenant for any such destruction.

27. It shall be unlawful to remove from this state any quail, ruffed grouse, pinnated grouse, woodcock, hare, squirrel or ring-necked pheasant; provided, however, that the provisions of this section shall not apply to such quail, ruffed grouse, pinnated grouse, woodcock, hare, squirrel or pheasant as may be in the possession of the person who may have lawfully captured the same during such periods as the provisions of this act make lawful for such capture, and that such removal shall not take place excepting within such periods; and provided further, that this section shall not apply to common carriers carrying from beyond the confines of this state in unbroken packages to some point beyond the confines of this state such quail, ruffed grouse, pinnated grouse, woodcock, hare, squirrel or pheasant; any person guilty of any violation of the provisions of this section shall be liable to a penalty of ten dollars for every quail, ruffed grouse, pinnated grouse, woodcock, hare, squirrel or pheasant removed or sought to be removed.

28. The term "waters of this state" for the purposes of this act shall be construed to mean all the fresh waters of this state; provided, that all ponds, lakes and waters created by or under the exclusive control of individuals or associations, stocked and maintained at the expense of such individuals or associations and not runways for migratory fish, shall be considered private waters and be exempt from the provisions of this act as far as such individuals and the members of such associations or persons receiving permits from them are concerned.

29. The provisions of this act shall be enforced in accordance with the provisions of an act entitled "An act to provide a uniform procedure for the enforcement of all laws relating to fish, game and birds, and for the recovery of penalties for the violation thereof," approved March twenty-sixth, one thousand eight hundred and ninety-seven, and the supplements thereto and acts amendatory thereof.

30. An act entitled "An act for the protection of certain kinds of birds, game and fish, and to provide a procedure to recover penalties for the violation hereof," approved March twenty-second one thousand, eight hundred and ninety-five, and the supplements to said act, approved April fourteenth, one thousand, eight hundred and ninety-six, be and the same are hereby repealed.

31. All acts and parts of acts inconsistent with this act he and the same are hereby repealed, and this act shall take effect immediately.

An Act to regulate fishing with pound nets in the waters of this state, including the waters of the Atlantic ocean within three miles of the coast line of this state, and to require a license for the erection and maintenance of such pound nets.

Be it enacted by the Senate and General Assembly of the State of New Jersey.

1. It shall be unlawful for any person or persons, corporation or corporations to erect or maintain any pound nets in any waters within the jurisdiction of this state, including the waters of the Atlantic ocean within three nautical miles of the coast line of this state, without having first obtained a license therefor in accordance with the provisions of this act.

2. Before any person or persons, corporation or corporations may erect and maintain such nets in the waters above specified, such person or persons, corporation or corporations shall obtain from the Board of Fish and Game Commissioners of this state a license therefor; the application for such license shall state the place where it is intended to erect and maintain such net, the size of the leader, heart and pocket of such net, and the distance of the point at which it is proposed to erect such net from the nearest inlet and also from the nearest pound net then erected and maintained, or in the course of erection.

3. Upon the receipt of such application the Board of Fish and Game Commissioners is hereby required, upon the payment to said Board as a license fee of the sum of one hundred dollars for each net, to issue to such person or persons, corporation or corporations, a license, duly signed by the secretary of such Board of Fish and Game Commissioners, which said license shall remain in force and effect for the period of one year from the date thereof.

4. It shall be unlawful to erect or to maintain any pound net, the leader of which shall begin at a point less than one thousand feet from the shore at low water mark.

5. It shall be unlawful to erect or to maintain any pound net, the leader of which shall have a mesh less in size than five and a half inches.

6. It shall be unlawful to erect or maintain any pound net, the pocket of which shall have a mesh of less than three inches.

7. Whenever any complaint is made to the Board of Fish and Game Commissioners of the violation of any of the sections of this act, or whenever said Board of Fish and Game Commissioners shall have received information of violations of any of the said sections, said board shall refer such complaint or information to the Fish and Game Protector of the state, or such fish and game warden as may be designated for that purpose by the Board of Fish and Game Commissioners or the President of such board, whose duty it shall be to make due inquiry into the truth of said complaint or information and to report to said board his finding, together with all such material facts as he may have ascertained in the course of such inquiry; and in the making of such investigations the Fish and Game Protector is authorized to cause to be summoned before him such witnesses as may be necessary and to take the depositions of such witnesses, which depositions shall be laid before the said Board of Fish and Game Commissioners as part of his report.

8. In case the report of the Fish and Game Protector shall establish to the satisfaction of the Board of Fish and Game Commissioners any violation of any of the sections of this act the said board may at its discretion revoke the license of the owner or owners of the net in which a violation of the law shall have been established.

9. The owner or owners of such nets whose license shall have been revoked as aforesaid shall within five days of the revocation of said license entirely remove such net nor shall they be permitted to again erect or maintain the same without having first obtained a license therefor as provided in the second and third sections of this act.

10. In case of failure to remove said net within five days after the date of said revocation of said license, as provided for in the preceding sections, it shall be the duty of said Board of Fish and Game Commissioners to cause said net to be removed.

11. In case of the removal of any such net, as provided for in the preceding section, said net may be sold or otherwise disposed of as the Board of Fish and Game Commissioners may deem best.

12. Said Board of Fish and Game Commissioners may refuse

to license the erection of any net or nets, if in their judgment such erection or maintenance shall materially interfere with the running of fish into nearby inlets, and may also refuse to license any owner or owners of nets who shall have been convicted as provided for in the seventh and eight sections of this act of any violation of the fourth, fifth or sixth sections of this act.

13. All sums of money received in the payment of license fees provided for in the third section of this act and all sums of money realized from the sale of nets as provided for in the tenth and eleventh section of this act shall be paid to the said Fish and Game Commissioners for the defraying of the expenses of their office.

14. All pound nets erected or maintained contrary to the provisions of this act shall be adjudged and they are hereby adjudged to be common nuisances, and they may be removed and destroyed at any time by order of said Board of Fish and Game Commissioners and no action for damages shall lie or be maintained against said Board of Fish and Game Commissioners for such removal and destruction.

15. All acts and parts of acts inconsistent with the provisions of this act shall be and the same are hereby repealed so far as they are inconsistent with the provisions of this act.

An act to amend an act entitled "An Act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six, which amendment was approved March twenty-fourth, one thousand eight hundred and ninety-nine.

Be it enacted by the Senate and General Assembly of the State of New Jersey,

1. The second section of an act entitled "An act to amend an act entitled "An act for the preservation of clams and oysters," approved April fourteenth, one thousand eight hundred and forty-six," which amendment was approved March twenty-fourth, one thousand eight hundred and ninety-nine, which reads as follows, "2. Upon complaint under oath made to him, any justice of the peace of the county wherein the offense was committed may and shall issue his warrant for the arrest and apprehension of any person violating the provisions of the first section of this act; and it shall be the duty of the several game and fish wardens, or any constable to, and any other person may, make complaint and bring action before any justice of the peace of the county against any person or persons so violating the provisions of this act; which warrants shall be served by either such warden or any constable," be and the same is hereby amended to read as follows:—

2. Upon complaint under oath made to him any justice of the peace of the county wherein the offense was committed may

and shall issue his warrant for the arrest and apprehension of any person violating the provisions of the first section of this act; any person may make complaint and bring action before any justice of the peace of the county against any person or persons so violating the provisions of this act; which warrants shall be served by any constable.

2. This act shall take effect immediately.

An act to amend an act entitled "An act to amend an act entitled 'A further supplement to an act entitled An act for the appointment of Commissioners for the better protection of the fishing interests of New Jersey,' approved March seventeenth, eighteen hundred and seventy, which supplement was approved May fifteenth eighteen hundred and ninety-four," which amendment was approved March twenty-second, eighteen hundred and ninety-five.

1. Be it enacted by the Senate and General Assembly of the State of New Jersey, that section two of the above entitled act which now reads "2. That the duties of the said board shall be the protection and propagation of fish, birds and game animals, and the enforcement of the law relating thereto, and for the propagation and distribution of food fish, and to keep up the supply thereof in the various waters of the state; said board shall have the conduct and control of such hatching stations as are now owned and operated by the state, and such as may hereafter be established, and shall have power to investigate any and all complaints made to the said board, and shall at all times have the right and power to inspect any dam, weir, fish-basket, net or other illegal apparatus for taking fish, and forthwith to remove the same, and shall have power on view or information, to enforce the laws for the protection and propagation of fish, birds and game animals within this state, by arrest and prosecution of the offender or offenders, without warrant or complaint, and shall make a full report to the legislature annually, at the meeting thereof for the year ending on the thirtieth day of November preceding, of all their official operations, with such suggestions and recommendations as they shall deem useful," be and the same is hereby amended to read as follows:—

2. That the duties of the said board shall be the protection and propagation of fish, birds and game animals, and the enforcement of the law relating thereto, and for the propagation and distribution of food fish, and to keep up the supply thereof in the various waters of the state; said board shall have the conduct and control of such hatching stations as may hereafter be established, and shall have power to investigate any and all complaints made to the said board, and shall at all times have the right and power to inspect

any dam, weir, fish-basket, net or other illegal apparatus for taking fish, and forthwith to remove the same, and shall have power, on view or information, to enforce the laws for the protection and propagation of fish, birds and game animals within this state, by arrest and prosecution of the offender or offenders, without warrant or complaint, and shall make a full report to the legislature annually, at the meeting thereof for the year ending on the thirty-first day of October preceding, of all their official operations, with such suggestions and recommendations as they shall deem useful.

An act to amend an act entitled "An act to provide a uniform procedure for the enforcement of all laws relating to fish, game and birds, and for the recovery of penalties for violations thereof," approved March twenty-ninth, one thousand, eight hundred and ninety-seven.

Be it enacted by the Senate and General Assembly of the State of New Jersey.

1. Section five of an act entitled "An act to provide a uniform procedure for the enforcement of all laws relating to fish, game and birds, and for the recovery of penalties for violations thereof," approved March twenty-ninth, one thousand, eight hundred and ninety-seven, which reads as follows: "5. For the violation of any law specified in the first section of this act, or any of the provisions thereof, done within the view of any constable, police officer, fish and game warden, fish and game protector, deputy fish and game warden, or any officer or member of any incorporated game protective society, such officer is hereby authorized, without warrant, to arrest the offender or offenders and to carry him or them before a justice of the peace, district court or police magistrate of the county wherein such arrest is made, and the justice, district court or police magistrate before whom such offender or offenders shall be taken is hereby authorized and required to hear and determine in a summary way the guilt or innocence of such person or persons, after receiving from the said officer a complaint in writing, duly verified, setting forth the nature of the offence for which the said person or persons was or were arrested," be and the same is hereby amended to read as follows:

5. For the violation of any law specified in the first section of this act, or any of the provisions thereof, done within the view of any fish and game warden, fish and game protector or deputy fish and game warden, such officer is hereby authorized, without warrant to arrest the offender or offenders and to carry him or them before a justice of the peace, district court or police magistrate of the county wherein such arrest is made, and the justice, district court or police magistrate before whom such offender or offenders

shall be taken is hereby authorized and required to hear and determine in a summary way the guilt or innocence of such person or persons, after receiving from the said officer a complaint in writing, duly verified, setting forth the nature of the offense for which the said person or persons was or were arrested.

2. Section sixteen of said act which reads as follows "16. All proceedings for the recovery of penalties pursuant to the provisions of this act shall be entitled and shall run in the name of the state of New Jersey, with one of the fish and game wardens of the state or a deputy fish and game warden, or a police officer, or a constable, or a member of any regularly incorporated fish and game protective association, or the fish and game protector, as prosecutor, and no proceedings shall be instituted by any person not a duly commissioned fish and game warden, or a deputy fish and game warden, or a police officer, or a constable, or a member of any incorporated fish and game protective association, or the fish and game protector of this state," be and the same is hereby amended to read as follows:

16. All proceedings for the recovery of penalties pursuant to the provisions of this act shall be entitled and shall run in the name of the state of New Jersey, with one of the fish and game wardens of this state, or a deputy fish and game warden, or the fish and game protector, as prosecutor, and no proceedings shall be instituted by any person not a duly commissioned fish and game warden, or a deputy fish and game warden, or the fish and game protector of this state.

3. This act shall take effect immediately.

## Part IV.---Prosecutions.

SIXTY thousand copies of the fish and game laws were issued by your commission during the past year and the supply is nearly exhausted. In addition to this your commission caused to be prepared convenient charts showing the open and close seasons and plates of this chart were furnished to all newspapers and job printers applying for the same. There is consequently no reason why every citizen of New Jersey interested in the matter even to the slightest degree should not know the provisions of the law.

The Supreme Court of the United States and the highest courts in many of the states have sustained the constitutionality of fish and game laws and no decision of any high tribunal can be found in which the general principles of fish and game laws were not sustained. Your commission has had abstracts made of these decisions and these have been published in a Book of Procedure issued by your commission for the guidance of justices of the peace, wardens, lawyers and others interested in the enforcement of the fish and game laws.

There is consequently only one difficulty in the way of the proper enforcement of the fish and game laws and that is the personnel of the force designated by the legislature for that purpose. Under the old law no person could begin a prosecution unless he had been first appointed a fish and game warden. As the number of wardens was limited by law and there were few of them compared with the large territory to be covered the legislature a few years ago provided that all constables, police officers and members of regularly incorporated fish and game protective associations should be empowered to institute prosecutions. Your commission has come to the conclusion that this amendment to the law is not a good one, for it has thrown

open the door wide to all kinds of abuses and unfortunately of a character which your commission was powerless to remedy. Prosecutions have been instituted contrary to all reason and common decency and in a number of instances the laws have been used for the extortion of money where either no or only trivial or technical offences had been committed. The law as it stands now has given an opportunity to unscrupulous persons to impose on people and thus has served to bring into disrepute in some instances laws which are proper and the enforcement of which is demanded by the public. Unfortunately the regularly constituted officers for the enforcement of the laws have been blamed for the actions of persons whose main interest in instituting prosecutions was either vengeance or a desire to secure the portion of the penalty which the law provides shall be paid to the prosecutor and informer. Whenever a warden or deputy acts in an unbecoming or improper manner the remedy is in the hands of your commission and has invariably been promptly applied but in a number of cases of uncalled-for prosecutions your commission was helpless. It is on this account that your commission suggests a return to the previous law, restricting the origin of prosecutions to wardens and deputies. The plea that there are not enough persons authorized to enforce the law, for the wardens cannot possibly cover all the state, has been answered by the enactment by the legislature of a law providing for the appointment of deputies who have the same powers possessed by wardens. Your commission has never hesitated to appoint properly qualified persons to the office of deputy and in this manner the number of proper persons authorized to enforce the fish and game laws has been materially increased. Your commission has issued a book of instructions to all wardens and deputies, explaining the spirit of the law and the proper manner of its enforcement and your commission can readily hold all officers within its control to a strict

accountability. If your commission is to be held responsible for a proper enforcement of the law it should be vested with authority to appoint and to remove all persons authorized to institute prosecutions. The record of prosecutions for the past year is as follows:

COUNTY.	COMPLAINANT.	ACCUSED.	CHARGE.	JUDGMENT.
Burlington..	Warden Wise.....	Simon Hagelle ...	Killing robin.....	Fined \$20 and cost.
Bergen....	Deputy Day.....	J. M. Brower.....	do.	do.
Cumberland	Warden Dare.....	Geo. W. Ritchie.....	Sunday gunning....	do.
Somerset ...	" Sebring.....	J. Harry Green.....	Possession of rabbit....	Sentence Suspended.
Cape May ..	" Hilton.....	Albert Loper.....	Killing insectivorous bird	Fined \$20 and cost.
Hudson.....	Deputy Engle.....	Phillip Holoplot.....	do.	do.
Middlesex..	Warden Sebring....	Carmelo Carmito.....	Killing rabbit.....	90 days in the jail.
Gloucester..	Deputy Dickerson..	Frank Dimeno.....	Sunday gunning.....	Fined \$20 and cost.
Sussex.....	Warden Hendershott	John Doe.....	do.	do.
"	"	George Doe.....	do.	do.
Mercer.....	" Huston.....	Samuel White.....	Killing rabbit.....	do.
Bergen.....	Deputy Gundlah....	Charles Van Saun.....	do.	do.
Warren.....	Warden Hill.....	David Oswald.....	Trapping rabbit.....	Sentence suspended.
"	"	James Kenney.....	do.	do.
Hudson.....	Deputy Day.....	Richard Orsman.....	Possession of finch.....	Fined \$20 and cost.
Bergen....	" Gundlah.....	George S. Zabriskie....	Trapping rabbit.....	Acquitted.
Burlington..	Warden Mathis.....	Walter Brown.....	Sunday gunning.....	Sentence suspended.
"	"	Walter Joslin.....	do.	do.
Atlantic....	Warden Schneider..	Henry Roller.....	Sunday gunning.....	Fined \$20 and cost
Burlington..	" Wise.....	John Carson.....	do.	do.
Hudson....	Deputy Day.....	Ernest Castella.....	Possession insect. bird...	do.
"	"	Nich Whelir.....	do.	do.
Bergen.....	" Gundlah.....	John Jerlinski.....	Sunday gunning.....	Acquitted
"	"	Frank Jerlinski.....	do.	do.
"	" Stewart.....	Thomas Kane.....	do.	20 days in jail
Cumberland	" Nickerson.....	Alfred Turpin.....	do.	90 days in jail
Bergen.....	" Stewart.....	William Siedler.....	do.	Sentence suspended

COUNTY.	COMPLAINANT.	ACCUSED.	CHARGE.	JUDGMENT.
Union.....	Warden Hawkins...	Ernest Linden. ....	Sunday gunning.....	Fined \$20 and cost.
Monmouth..	" Kerr.....	Eldreth Cottrell.....	Killing blue jay.....	Sentence suspended.
Somerset....	" Miller.....	J. F. Garretson.....	Netting in Raritan river.	do.
"	" Miller & Ayres	Fred Knowelluk. ....	do.	Fined \$50 and cost.
Bergen.....	Deputy Stewart....	John Lappo.....	Attempt to take rabbits..	Sentence suspended..
"	" ".....	Charles Tarhala.....	do.	do.
"	" ".....	John Antoni.....	do.	do.
Passaic.....	Warden Hawkins....	William Garrison.....	setline fishing.....	7 days in jail and cost.
Bergen.....	" ".....	Thomas Garrison.....	do.	Discontinued.
"	Deputy Stewart....	Frank Erskma.....	Attempt to take rabbits..	Case undisposed of.
"	" ".....	John Frank.....	do.	do.
"	" ".....	Christian Peck.....	do.	do.
Passaic.....	Warden Hawkins....	George Lombardo.....	Killing swallows.....	Fined \$60 and cost.
Salem.....	" Torton.....	Alfred Risener.....	Violation Oldman Act...	Fined \$10 and cost.
Passaic.....	Wardens Hawkins & Ayres.....	James Garrison.....	Using setline.....	30 days in jail.
Salem.....	Warden Newell.....	Charles L. Davis.....	Sunday shad fishing.....	Acquitted.
Hudson.....	" Kerr.....	James Paresio.....	Birds nesting.....	Fined \$20 and cost.
Morris.....	Wardens Hawkins & Ayres.....	Simon Ader.....	Eel weir.....	15 days in jail.
"	Wardens Hawkins & Ayers.....	Abrah Fisher.....	Spearing trout.....	Fined \$25 and cost.
"	Wardens Hawkins & Ayers.....	James Beam.....	do.	do.
Hunterdon..	Warden Chamberlain	Lewis Sutphin.....	Netting fish.....	Fined \$50 and cost.
"	" ".....	Howard Sutphin.....	do.	do.
Bergen.....	Deputy Naeder.....	Charles L. Keehn.....	Shooting cuckoo.....	Fined \$20 and cost.

Bergen.....	Deputy Stewart....	Henry Vreeland.....	Sunday gunning.....	Sentence suspended.
"	" ".....	David Rose.....	do.	do.
"	" Day.....	Pasquale Marino.....	do.	Fined \$20 and cost.
"	" ".....	Louis Penoteau.....	do.	do.
Morris.....	Warden Schafer....	Eli Van Duyn.....	do.	Sentence suspended.
Cumberland	Deputy Nickerson..	Louis Traiman.....	do.	Fined \$20 and cost.
Atlantic....	Warden Schneider..	John Adams.....	Killing snipe.....	Fined \$20 and cost
Ocean.....	" Wood.....	Percey Hogg.....	Trapping rabbit.....	Sentence suspended
Warren.....	" Hill.....	Melvin Cole.....	Killing rabbit.....	do.
Cumberland	" Phifer.....	John Englehart.....	Possession of deer.....	Fined \$100
"	" ".....	Andrew Synder.....	do.	do.
Bergen.....	" Ricardo.....	Irving Brower.....	Taking pickerel.....	Case undisposed of
Union.....	" Hawkins.....	David Earl.....	Killing dove.....	Sentence suspended
"	" ".....	John Gardner.....	Taking pickerel.....	Fined \$20 and cost
Camden.....	" Guthridge.....	Isaac Bassett.....	Sunday shad fishing....	Sentence suspended
"	" ".....	George Hillman.....	do.	do.
"	" ".....	James Doherty.....	do.	do.
"	" ".....	John M. Heppard.....	do.	do.
"	" ".....	John Pfister.....	do.	do.
"	" ".....	Alex. G. Bray.....	do.	do.
Ocean.....	" Wood.....	James T. White.....	Killing squirrel.....	Fined \$20 and cost
Morris.....	" Riley.....	John Searing.....	Hunting with ferret....	Fined \$50 and cost
Warren.....	" Snyder.....	Stewart Hahn.....	Fishing with net.....	Sentence suspended
"	" ".....	Clement Hahn.....	do.	do.
"	" ".....	Orville Winters.....	do.	do.
Ocean.....	" Wood.....	B. L. Ward.....	Killing squirrel.....	30 days in jail
Warren.....	" Hill.....	Allen Bigler.....	Killing Meadow lark....	Fined \$20 and cost
Union.....	" Pheasant.....	Toni Poligino.....	Killing fish with lime...	90 days in jail
Morris.....	" Shafer.....	Daniel Osborne.....	Taking bass.....	Acquitted
Burlington..	" Wise.....	James Chapman.....	Sunday shad fishing....	Fined \$50 and cost
"	" ".....	Ernest Chaplain.....	do.	do.



## GENERAL EXPENSE ACCOUNT.

JERSEY CITY, N. J., November 1, 1899.

*The Board of Fish and Game Commissioners of the State of New Jersey.**In Account with HOWARD P. FROTHINGHAM, Treasurer*

## CR.

Balance on hand November 1, 1898.....	\$282.55	
Received from fines collected for violation of the Fish and Game laws for the year ending October 31, 1899, being one third thereof as provided for by law,.....	519.66	
Received from license fees to steamers and sailing vessels to catch menhaden.....	1,425.00	
	<u>\$2,227.21</u>	\$2,227.21

## DR.

Paid for legal services, expert, scientific services, justices' fees, constables' and witnesses' fees.....	712.49	
Paid for hiring tug to watch menhaden fishermen, and services &c.....	90.00	
Paid for postage, printing, stationery, distribution of laws, &c.....	700.44	
Paid for rent of meeting room, codifying laws and preparation of annual reports, exchange on cheques deposited, use of launch for sturgeon violations, expenses in Scudder's Falls matter, painting sign, making box for Secretary, &c.....	630.32	
	<u>\$2,133.25</u>	\$2,133.25
Balance.....		\$93.96

JERSEY CITY, N. J., November 1, 1899.

*The Board of Fish and Game Commissioners of the State of New Jersey.**In Account with HOWARD P. FROTHINGHAM, Treasurer.*

Receipts from licenses to catch menhaden to steamers and sailing vessels, under the provisions of an act entitled "An act to regulate fishing by steam and other vessels with shirred or

purse seines in the waters of the State of New Jersey and to require a license for such fishing," approved March 26, 1896.

## STEAMERS.

LICENSEE.	NAMES OF VESSEL.	DATE OF ISSUE.	AMOUNT PAID.
Joseph Wharton.....	Active .....	June 5, 1899.	\$100.00
J. C. Fifield Sons & Co.....	Nellie E. Rowson.....	July 25, 1899.	100.00
American Fisheries Co.....	Falcon .....	July 28, 1899.	125.00
American Fisheries Co.....	George Humphrey .....	July 28, 1899.	200.00
American Fisheries Co.....	Estelle .....	July 28, 1899.	125.00
American Fisheries Co.....	Ranger.....	July 28, 1899.	125.00
American Fisheries Co.....	Joseph Church.....	July 28, 1899.	200.00
Joseph Wharton.....	Alert.....	July 31, 1899.	100.00
The Wilcox Fertilizer Works.....	Annie L. Wilcox.....	Aug. 2, 1899.	125.00

## SAILING VESSELS.

LICENSEE	NAME OF VESSEL.	DATE OF ISSUE.	AMOUNT PAID.
Harrison Vail.....	Swan.....	May 18, 1899.	\$25.00
Charles F. Warner.....	V. Koon.....	June 20, 1899.	25.00
Captain F. Bishop.....	Lucy Bell.....	June 20, 1899.	25.00
Captain Jos. Hines.....	S. W. Truslow.....	June 21, 1899.	25.00
Geo. M. Tilton, Jr.....	J. E. de Blois.....	June 26, 1899.	25.00
S. F. Townsend.....	C. D. Smith.....	June 27, 1899.	25.00
D. C. Benjamin.....	Edgar.....	July 25, 1899.	25.00
John F. Raynor.....	Mary Emma.....	July 25, 1899.	25.00
Fischer & Bussell .....	Brilliant.....	Aug. 22, 1899.	25.00
			<u>\$1,425.00</u>

ANNUAL REPORT

OF THE

Board of  
Fish and Game Commissioners

OF THE

STATE OF NEW JERSEY,

For the Year ending October 31st,

1900.

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TRENTON, N. J.:

THE JOHN L. MURPHY PUBLISHING Co., PRINTERS.

1900.